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No. 29] NEW DELHI, JULY 16—JULY 22, 2017, SATURDAY/ASADHA 25—ASADHA 31, 1939

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक् संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

वित्त मंत्रालय
(वित्तीय सेवाएं विभाग)
नई दिल्ली, 17 जुलाई, 2017

का.आ. 1678.—जीवन बीमा निगम अधिनियम, 1956 (1956 का 31) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार एतद्वारा श्री शक्तिकांत दास के स्थान पर श्री सुभाष चंद्र गर्ग, सचिव, आर्थिक कार्य विभाग को तत्काल प्रभाव से अगले आदेशों तक उक्त निगम के सदस्य के रूप में नियुक्त करती है।

[फा. सं. 14/3/2003-बीमा-I]

एस. के. मोहन्ती, अवर सचिव

MINISTRY OF FINANCE
(Department of Financial Services)

New Delhi, the 17th July, 2017

S.O. 1678.—In exercise of the powers conferred by Section 4 of the Life Insurance Corporation Act, 1956 (31 of 1956), the Central Government hereby appoints Sh. Subhash Chandra Garg, Secretary, Department of Economic Affairs as Member of the said Corporation vice Sh. Shaktikanta Das, with immediate effect till further orders.

[F. No. 14/3/2003-Ins.I]

S. K. MOHANTY, Under Secy.

नई दिल्ली, 17 जुलाई, 2017

का.आ. 1679.—बीमा विनियामक और विकास प्राधिकरण अधिनियम, 1999 (1999 का 41) की धारा 4 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केंद्रीय सरकार एतद्वारा श्री एन. श्रीनिवास राव, आर्थिक सलाहकार, वित्तीय सेवाएं विभाग के स्थान पर श्री रवि मित्तल, अपर सचिव, वित्तीय सेवाएं विभाग को तत्काल प्रभाव से अगले आदेशों तक भारतीय बीमा विनियामक और विकास प्राधिकरण (आईआरडीएआई) के अंशकालिक सदस्य के रूप में नियुक्त करती है।

[फा. सं. 11/6/2003-बीमा-I]

एस. के. मोहन्ती, अपर सचिव

New Delhi, the 17th July, 2017

S.O. 1679.—In exercise of the powers conferred by Section 4 of the Insurance Regulatory and Development Authority Act, 1999 (41 of 1999), the Central Government hereby appoints Shri Ravi Mital, Additional Secretary, Department of Financial Services, Ministry of Finance as Part-time Member of the Insurance Regulatory and Development Authority of India (IRDAI) vice Shri N. Srinivasa Rao, Economic Advisor, DFS with immediate effect and until further orders.

[F. No.11/6/2003-Ins.I]

S. K. MOHANTY, Under Secy.

विदेश मंत्रालय

(सीपीवी प्रभाग)

नई दिल्ली, 4 जुलाई, 2017

का.आ. 1680.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केन्द्र सरकार भारत के सहायक उच्चायोग, मोम्बासा में श्री ब्रह्म प्रकाश, सहायक अनुभाग अधिकारी को दिनांक 4 जुलाई 2017 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी. 4330/1/2015]

प्रकाश चन्द, निदेशक (कौंसुलर)

MINISTRY OF EXTERNAL AFFAIRS

(CPV DIVISION)

New Delhi, the 4th July, 2017

S.O. 1680.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Braham Parkash, Assistant Section Officer as Assistant Consular Officer in Assistant High Commission of India, Mombasa to perform the Consular services with effect from 4 July, 2017.

[No. T. 4330/01/2015]

PRAKASH CHAND, Director (Consular)

नई दिल्ली, 6 जुलाई, 2017

का.आ. 1681.—राजनयिक और कौंसुलीय अधिकारी (शपथ एवं फीस) के अधिनियम, 1948 की धारा 2 के खंड (क) के अनुसरण में वैधानिक आदेश।

एतद्वारा, केन्द्र सरकार भारत के उच्चायोग, कम्पाला (युगांडा) में श्री सौरभ आनंद, सहायक अनुभाग अधिकारी को दिनांक 5 जुलाई 2017 से सहायक कौंसुलर अधिकारी के तौर पर कौंसुलर सेवाओं के निर्वहन के लिए प्राधिकृत करती है।

[सं. टी. 4330/1/2017]

प्रकाश चन्द, निदेशक (कौंसुलर)

New Delhi, the 6th July, 2017

S.O. 1681.—Statutory Order in pursuance of the clause (a) of the Section 2 of the Diplomatic and Consular Officers (Oaths and fees) Act, 1948 (41 of 1948), the Central Government hereby appoints Shri Saurabh Anand, Assistant Section Officer as Assistant Consular Officer in High Commission of India, Kampala (Uganda) to perform the Consular services with effect from 5 July, 2017.

[No. T. 4330/01/2017]

PRAKASH CHAND, Director (Consular)

नागर विमानन मंत्रालय

नई दिल्ली, 11 जुलाई, 2017

का.आ. 1682.—केन्द्र सरकार, सरकारी स्थान (अप्राधिकृत अधिभोगियों का बेदखली) अधिनियम, 1971 (1971 का 40) की धारा 3 में प्रदत्त शक्तियों का प्रयोग करते हुए तथा भारत सरकार, नागर विमानन मंत्रालय की दिनांक 21 नवम्बर, 2014 की अधिसूचना संख्या एस.ओ. 3066 का अधिक्रमण करते हुए, ऐसे अधिक्रमण से पूर्व किए जा चुके कार्य अथवा पूरा किए जाने के लिए छोड़ दिए गए कार्यों के अलावा, नीचे प्रस्तुत तालिका के कॉलम (2) में उल्लिखित अधिकारियों को, सरकार के राजपत्रित अधिकारी के समान ओहदा होने के कारण, उपर्युक्त अधिनियम के उद्देश्यों से एतद्वारा सम्पदा अधिकारी नियुक्त करती है जो, अपने संबंधित क्षेत्राधिकार के दायरे में, प्रदत्त की गई शक्तियों का प्रयोग करते हुए ऊपर उल्लिखित तालिका के कॉलम (3) में विनिर्दिष्ट किए गए सरकारी स्थान के संबंध में अथवा उक्त अधिनियम के अंतर्गत सम्पदा अधिकारी को दिए गए कार्यों का निर्वाह करेंगे।

तालिका

क्र.सं.	अधिकारी का पदनाम	सरकारी स्थानों का वर्गीकरण
(1)	(2)	(3)
1.	सहायक महाप्रबंधक (कार्मिक), वरिष्ठ सहायक महाप्रबंधक (कार्मिक), उप महाप्रबंधक (कार्मिक), कार्मिक विभाग, पूर्वी क्षेत्र, एअर इंडिया लिमिटेड, कोलकाता।	असम, बिहार, मणिपुर, मिजोरम, नागालैंड, ओडिशा, त्रिपुरा, पश्चिम बंगाल और अंडमान और निकोबार द्वीपसमूहों के राज्यों में एअर इंडिया लिमिटेड की ओर से या पट्टे पर ली गई सभी आवासीय परिसर
2.	सहायक महाप्रबंधक (कार्मिक), वरिष्ठ सहायक महाप्रबंधक (कार्मिक), उप महाप्रबंधक (कार्मिक), कार्मिक विभाग, उत्तरी क्षेत्र, एअर इंडिया लिमिटेड, इंदिरा गांधी अंतर्राष्ट्रीय हवाई अड्डा, नई दिल्ली	दिल्ली के राष्ट्रीय राजधानी क्षेत्र और हिमाचल प्रदेश, जम्मू और कश्मीर, मध्य प्रदेश, पंजाब राजस्थान, उत्तराखंड, उत्तर प्रदेश और संघ शासित क्षेत्र चंडीगढ़ में एअर इंडिया लिमिटेड की ओर से या पट्टे पर ली गई सभी आवासीय परिसर।

3.	सहायक महाप्रबंधक (कार्मिक), वरिष्ठ सहायक महाप्रबंधक (कार्मिक), उप महाप्रबंधक (कार्मिक), कार्मिक विभाग, दक्षिणी क्षेत्र एअर इंडिया लिमिटेड, चेन्नई।	आंध्र प्रदेश, कर्नाटक, केरल, तमिलनाडु और तेलंगाना राज्यों में एअर इंडिया लिमिटेड की ओर से पट्टे पर या उससे संबंधित सभी आवासीय परिसर।
4.	सहायक महाप्रबंधक (कार्मिक), वरिष्ठ सहायक महाप्रबंधक (कार्मिक), उप महाप्रबंधक (कार्मिक), कार्मिक विभाग, पश्चिमी क्षेत्र, एअर इंडिया लिमिटेड, मुंबई	गोवा, गुजरात, मध्य प्रदेश और महाराष्ट्र राज्यों में एअर इंडिया लिमिटेड की ओर से पट्टे पर या उससे संबंधित सभी आवासीय परिसर
5.	सहायक महाप्रबंधक (औद्योगिक संबंध), वरिष्ठ सहायक महाप्रबंधक (औद्योगिक संबंध), उप महाप्रबंधक (औद्योगिक संबंध), औद्योगिक संबंध, मुख्यालय, एअर इंडिया लिमिटेड, एअरलाइंस हाउस, नई दिल्ली	एअर इंडिया लिमिटेड की ओर से या पट्टे पर ली गई सभी आवासीय परिसर और एअर इंडिया लिमिटेड, नई दिल्ली के मुख्यालय के प्रशासनिक नियंत्रण के तहत।
6.	सहायक महाप्रबंधक (संपत्ति और सुविधाएं), वरिष्ठ सहायक महाप्रबंधक (संपत्ति और सुविधाएं), उप महाप्रबंधक (संपत्ति और सुविधाएं), संपत्ति और सुविधाएं विभाग, पूर्वी क्षेत्र, एअर इंडिया लिमिटेड, कोलकाता	असम, बिहार, मणिपुर, मिजोरम, नागालैंड, ओडिशा, त्रिपुरा, पश्चिम बंगाल और अंडमान निकोबार द्वीप समूह के संघ राज्यों में एअर इंडिया लिमिटेड की ओर से पट्टे पर ली गई पट्टे के अलावा अन्य सभी परिसर।
7.	सहायक महाप्रबंधक (संपत्ति और सुविधाएं), वरिष्ठ सहायक महाप्रबंधक (संपत्ति और सुविधाएं), उप महाप्रबंधक (संपत्ति और सुविधाएं), संपत्ति और सुविधाएं, उत्तरी क्षेत्र, एअर इंडिया लिमिटेड, इंदिरा गांधी अंतर्राष्ट्रीय हवाई अड्डा, नई दिल्ली।	दिल्ली के राष्ट्रीय राजधानी क्षेत्र और हिमाचल प्रदेश, जम्मू और कश्मीर, मध्य प्रदेश, पंजाब, राजस्थान, उत्तराखंड, उत्तर प्रदेश और राज्यों में एअर इंडिया लिमिटेड की ओर से पट्टे पर ली गई पट्टेदारी के अलावा अन्य सभी परिसर चंडीगढ़ का संघीय क्षेत्र
8.	सहायक महाप्रबंधक (संपत्ति और सुविधाएं), वरिष्ठ सहायक प्रबंधक (संपत्ति और सुविधाएं), उप महाप्रबंधक (संपत्ति और सुविधाएं), संपत्ति और सुविधाएं दक्षिणी क्षेत्र, एअर इंडिया लिमिटेड, चेन्नई।	आंध्र प्रदेश, कर्नाटक, केरल, तमिलनाडु और तेलंगाना राज्यों में एअर इंडिया लिमिटेड की ओर से या पट्टे पर ली गई पट्टे पर आवासीय परिसर के अलावा अन्य सभी परिसरों
9.	सहायक महाप्रबंधक (संपत्ति और सुविधाएं), वरिष्ठ सहायक महाप्रबंधक (संपत्ति और सुविधाएं), उप महाप्रबंधक (संपत्ति और सुविधाएं), संपत्ति और सुविधाएं विभाग, पश्चिमी क्षेत्र, एअर इंडिया लिमिटेड, मुंबई ..	गोवा, गुजरात, मध्य प्रदेश और महाराष्ट्र राज्य में एअर इंडिया लिमिटेड की ओर से पट्टे पर ली गई पट्टे पर या आवासीय परिसरों के अलावा अन्य सभी परिसरों
10.	सहायक महाप्रबंधक (संपत्ति और सुविधाएं), वरिष्ठ सहायक प्रबंधक (संपत्ति और सुविधाएं), उप	एअर इंडिया लिमिटेड की ओर से या एअर इंडिया लिमिटेड की ओर से ली गई पट्टे पर या एअर इंडिया

महाप्रबंधक (संपत्ति और सुविधाएं), संपत्ति और सुविधाएं, विभाग मुख्यालय, एअर इंडिया लिमिटेड, एअरलाइंस हाउस, नई दिल्ली	लिमिटेड, नई दिल्ली के मुख्यालय के प्रशासनिक नियंत्रण के तहत आवासीय परिसरों के अलावा अन्य सभी परिसर।
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[फा.सं . ए वी. 17046/04/2017-एआई]

चंद्र किशोर शुक्ला, अवर सचिव

MINISTRY OF CIVIL AVIATION

New Delhi, the 11th July, 2017

S.O. 1682.—In exercise of the powers conferred by section 3 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (40 of 1971) and in supersession of the Government of India, Ministry of Civil Aviation, notification number S.O. 3066 dated 21st November, 2014, except as respects things done or omitted to be done before such suppression, the Central Government hereby appoints the officers mentioned in column (2) of the Table below, being officers equivalent to the rank of the Gazetted Officer of the Government, to be estate officer for the purpose of the said Act, who shall exercise the power conferred and perform the duties imposed on the estate officers by or under the said Act, within the local limits of their respective jurisdiction in respect of the public premises specified in column (3) of the said Table.

TABLE

Sl. No.	Designation of officer	Categories of public premises
(1)	(2)	(3)
1.	Assistant General Manager (Personnel), Senior Assistant General Manager (Personnel), Deputy General Manager (Personnel), Personnel Department, Eastern Region, Air India Limited, Kolkata.	All residential premises belonging to or taken on lease by or on behalf of Air India Limited in the States of Assam, Bihar, Manipur, Mizoram, Nagaland, Odisha, Tripura, West Bengal and Union territory of Andaman and Nicobar islands.
2.	Assistant General Manager (Personnel), Senior Assistant General Manager (Personnel), Deputy General Manager (Personnel), Personnel Department, Northern Region, Air India Limited, Indira Gandhi International Airport, New Delhi	All residential premises belonging to or taken on lease by or on behalf of Air India Limited in the National capital territory of Delhi and the States of Himachal Pradesh, Jammu and Kashmir, Madhya Pradesh, Punjab Rajasthan, Uttarakhand, Uttar Pradesh and union territory of Chandigarh.
3.	Assistant General Manager (Personnel), Senior Assistant General Manager (Personnel), Deputy General Manager (Personnel), Personnel Department, southern Region Air India Limited, Chennai.	All residential premises belonging to or taken on lease by or on behalf of Air India Limited in the states of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and Telangana
4.	Assistant General Manager (Personnel), Senior Assistant General Manager (Personnel), Deputy General Manager (Personnel), Personnel Department, Western Region, Air India Limited, Mumbai	All residential premises belonging to or taken on lease by or on behalf of Air India Limited in the states of Goa, Gujarat, Madhya Pradesh and Maharashtra.
5.	Assistant General Manager (Industrial Relation), Senior Assistant General Manager (Industrial Relation), Deputy General Manager (Industrial Relation), Industrial relations, Headquarters, Air India Limited, Airlines House, New Delhi.	All residential premises belonging to or taken on lease by or on behalf of Air India Limited and under the administrative control of the Headquarters of Air India Limited, New Delhi.
6.	Assistant General Manager (Properties and Facilities), Senior Assistant General Manager (Properties and Facilities), Deputy General Manager (Properties and Facilities), Properties	All premises other than residential premises belonging to or taken on lease by or on behalf of Air India Limited in the States of Assam, Bihar, Manipur, Mizoram, Nagaland, Odisha, Tripura, West Bengal and Union

	and facilities Department, Eastern Region, Air India Limited, Kolkata	Territory of Andaman and Nicobar Islands.
7.	Assistant General Manager (Properties and Facilities), Senior Assistant General Manager (Properties and Facilities), Deputy General Manager (Properties and Facilities), Properties and facilities , Northern Region, Air India Limited, Indira Gandhi International Airport, New Delhi.	All premises other than residential premises belonging to or taken on lease by or on behalf of Air India Limited in the National Capital Territory of Delhi and the States of Himachal Pradesh, Jammu and Kashmir, Madhya Pradesh, Punjab, Rajasthan, Uttarakhand, Uttar Pradesh and Union Territory of Chandigarh.
8.	Assistant General Manager (Properties and Facilities), Senior Assistant General Manager (Properties and Facilities), Deputy General Manager (Properties and Facilities), Properties and Facilities Southern Region, Air India Limited, Chennai.	All premises other than residential premises belonging to or taken on lease by or on behalf of Air India Limited in the States of Andhra Pradesh, Karnataka, Kerala, Tamil Nadu and Telangana.
9.	Assistant General Manager (Properties and Facilities), Senior Assistant General Manager (Properties and Facilities), Deputy General Manager (Properties and Facilities), Properties and Facilities Department, Western Region, Air India limited, Mumbai..	All premises other than residential premises belonging to or taken on lease by or on behalf of Air India Limited in the State of Goa, Gujarat, Madhya Pradesh and Maharashtra.
10.	Assistant General Manager (Properties and Facilities), Senior Assistant General Manager (Properties and Facilities), Deputy General Manager (Properties and Facilities), Properties and Facilities, Department Headquarters, Air India Limited, Airlines House, New Delhi	All premises other than residential premises belonging to or taken on lease by or on behalf of Air India Limited and under the administrative control of the Headquarters of Air India Limited, New Delhi.

[F. No. AV. 17046/04/2017-AI]

CHANDRA KISHORE SHUKLA, Under Secy.

कोयला मंत्रालय

नई दिल्ली, 19 जुलाई, 2017

का.आ. 1683.—कोयला धारक क्षेत्र (अर्जन और विकास) अधिनियम, 1957 (1957 का 20) (जिसे इसमें इसके पश्चात् उक्त अधिनियम कहा गया है) की धारा 9 की उप-धारा (1) के अधीन जारी, भारत के राजपत्र, भाग II, खंड 3, उप-खंड (ii), तारीख 29 मई, 2017 में प्रकाशित भारत सरकार के कोयला मंत्रालय की अधिसूचना संख्यांक का. आ. 1708(अ), तारीख 26 मई, 2017 के प्रकाशन पर, उक्त अधिसूचना से संलग्न अनुसूची में वर्णित भूमि (जिसे इसमें इसके पश्चात् उक्त भूमि कहा गया है) और भूमि में या उस पर के सभी अधिकार, उक्त अधिनियम की धारा 10 की उप-धारा (1) के अधीन, सभी विल्लंगमों से मुक्त होकर, आत्यंतिक रूप से केन्द्रीय सरकार में निहित हो गए थे;

और, केन्द्रीय सरकार का यह समाधान हो गया है कि साउथ ईस्टर्न कोलफील्ड्स लिमिटेड, सीपत रोड, पोस्ट बाक्स संख्या 60, जिला—बिलासपुर—495006 (छत्तीसगढ़) (जिसे इसमें इसके पश्चात् सरकारी कम्पनी कहा गया है), ऐसे निबंधनों और शर्तों का जो केन्द्रीय सरकार इस निमित्त अधिरोपित करना उचित समझे, अनुपालन करने के लिये तैयार है;

अतः, अब, केन्द्रीय सरकार, उक्त अधिनियम की धारा 11 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निदेश देती है कि इस प्रकार निहित उक्त भूमियों में या भूमियों पर के सतही अधिकार, तारीख 29 मई, 2017 से केन्द्रीय सरकार में इस प्रकार निहित बने रहने की बजाय, निम्नलिखित निबंधनों और शर्तों के अधीन, उक्त सरकारी कम्पनी में निहित हो जाएंगे, अर्थात् :—

- (1) सरकारी कम्पनी, उक्त अधिनियम के उपबंधों के अधीन यथा अवधारित प्रतिकर, ब्याज, नुकसानियों और वैसी ही मदों की बाबत किए गए सभी संदायों की केन्द्रीय सरकार को प्रतिपूर्ति करेगी;
- (2) उक्त सरकारी कम्पनी द्वारा शर्त (1) के अधीन, केन्द्रीय सरकार को संदेय रकमों का अवधारण करने के प्रयोजन के लिये उक्त अधिनियम की धारा 14 के अधीन एक अधिकरण का गठन किया जाएगा तथा ऐसे किसी अधिकरण और ऐसे अधिकरण की सहायता करने के लिये नियुक्त व्यक्तियों के संबंधों में उपगत सभी व्यय, सरकारी कम्पनी द्वारा वहन किये जाएंगे और इस प्रकार निहित उक्त भूमि में या उस पर के अधिकारों के लिये या उसके संबंध में सभी विधिक कार्यवाहियों जिसके अधीन अपील भी है, के संबंध में, सभी व्यय भी, इसी प्रकार उक्त सरकारी कम्पनी द्वारा वहन किये जायेंगे;
- (3) सरकारी कम्पनी, केन्द्रीय सरकार या उसके पदधारियों की, ऐसे किसी अन्य व्यय के संबंध में, क्षतिपूर्ति करेगी जो इस प्रकार निहित उक्त भूमियों में या उस पर के अधिकारों के संबंध में, केन्द्रीय सरकार या उसके पदधारियों द्वारा या उनके विरुद्ध किन्हीं कार्यवाहियों के संबंध में आवश्यक हो;
- (4) सरकारी कम्पनी को, केन्द्रीय सरकार के पूर्व अनुमोदन के बिना, उक्त भूमियों और अधिकारों को किसी अन्य व्यक्ति को अंतरित करने की शक्ति नहीं होगी; और
- (5) सरकारी कम्पनी, ऐसे निदेशों और शर्तों का, जो केन्द्रीय सरकार द्वारा, जब कभी आवश्यक हो, उक्त भूमियों के विशिष्ट क्षेत्रों के लिये दिए जाएं या अधिरोपित की जाए, पालन करेगी।

[फा. सं. 43015/29/2017—एलए एण्ड आईआर]

आर. एस. सरोज, अवर सचिव

MINISTRY OF COAL

New Delhi, the 19th July, 2017

S.O. 1683.—Whereas on the publication of the notification of the Government of India in the Ministry of Coal, Number S.O. 1708(E), dated the 26th May, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (ii), dated the 29th May, 2017 issued under sub-section (1) of section 9 of the Coal Bearing Areas (Acquisition and Development) Act, 1957 (20 of 1957) (hereinafter referred to as the said Act), the lands and surface rights in or over the land described in the Schedule appended to the said notification (hereinafter referred to as the said land) vested absolutely in the Central Government free from all encumbrances under sub-section (1) of section 10 of the said Act;

And whereas the Central Government is satisfied that the South Eastern Coalfields Limited, Seepat Road, P. B. No. 60, District-Bilaspur-495006, Chhattisgarh (hereinafter referred to as the Government company) is willing to comply with such terms and conditions as the Central Government thinks fit to impose in this behalf;

Now, therefore, in exercise of the powers conferred by sub-section (1) of section 11 of the said Act, the Central Government hereby directs that the surface rights in or over the said lands so vested shall with effect from the 29th May, 2017 instead of continuing to so vest in the Central Government, shall vest in the Government company, subject to the following terms and conditions, namely:-

- (1) the Government company shall reimburse to the Central Government all payments made in respect of compensation, interest, damages and the like as determined under the provisions of the said Act;
- (2) a Tribunal shall be constituted under section 14 of the said Act for the purpose of determining the amounts payable to the Central Government by the Government company under condition (1), and all expenditure incurred in connection with any such Tribunal and persons appointed to assist the said Tribunal shall be borne by the Government company and similarly, all expenditure incurred in respect of all legal proceedings, including appeals, for or in connection with the rights in or over the said lands, so vested, shall also be borne by the Government company;
- (3) the Government company shall indemnify the Central Government or its officials against any other expenditure that may be necessary in connection with any proceedings by or against the Central Government or its officials regarding the rights in or over the said lands so vested;

- (4) the Government company shall have no power to transfer the said lands and the rights to any other persons without the prior approval of the Central Government; and
- (5) the Government company shall abide by such directions and conditions as may be given or imposed by the Central Government for particular areas of the said lands as and when necessary.

[F. No. 43015/ 29/ 2017 – LA&IR]

R. S. SAROJ, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 5 जुलाई, 2017

का.आ. 1684.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि तेलंगाना राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप - हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. नारायणा राव, सक्षम प्राधिकारी (तेलंगाना), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, प्लॉट संख्या 264/ए, दूसरी मंजिल, कैनरा बैंक के ऊपर, मार्ग संख्या 10, जुबिली हिल्स, हैदराबाद-500033, तेलंगाना राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: सुर्यापेट

राज्य: तेलंगाना

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
पेन्पहाड़	चीदेल्ला	433	00	13	60
		432	00	38	86
		431	00	32	73
		430	00	35	58

पेन्पहाड़	चीदिल्ला	429	00	14	72
		452	00	53	42
		453	00	64	20
		406	00	11	03
		460	00	32	48
		461	00	18	47
		377	00	08	94
		380/1	00	00	07
		372	00	01	01
		375	00	07	24
		373	00	15	40
		371	00	14	56
		357	00	11	13
		358	00	12	31
		353	00	10	91
		347	00	10	22
		348	00	23	63
		340	00	04	57
		341	00	09	37
		343	00	01	35
		342	00	08	66
		328	00	07	22
		329	00	10	67
		323/1	00	18	02
		323/5	00	00	14
		322	00	18	26
		320	00	06	58
		319	00	02	33

पेन्पहाड़	चीदेला	318	00	26	33
		313	00	03	72
		314	00	12	82
		312	00	25	03
		311	00	00	03
		286	00	48	94
		285	00	11	63
		282	00	24	45
		नाला	00	01	30
		9	00	39	11
		887	00	27	61
		886	00	46	01
		885	00	48	14
		884	00	35	71
		881	00	26	78
पेन्पहाड़	गाजुलमल्कापूरम	239	00	02	89
		241	00	51	49
		242	00	21	61
		244/1	00	47	08
पेन्पहाड़	माचारम	164	00	05	16
		163	00	30	73
		166	00	23	71
		161	00	19	98
		151	00	34	15
		150	00	37	41
		149	00	32	27

पेन्पहाड़	माचारम	148	00	30	88
पेन्पहाड़	पेन्पहाड़	92	00	67	51
		94/1	00	11	22
		94/39	00	11	23
		94/40	00	00	34
		94/43	00	08	99
		94/42	00	10	48
		81	00	03	84
		82	00	01	91
		80	00	64	46
		94/38	00	01	42
		94/23	00	09	49
		94/25	00	06	66
		94/20	00	00	11
		94/22	00	09	99
		94/37	00	35	01
		94/17	00	21	15
		74	00	20	86
		73	00	02	44
पेन्पहाड़	महम्मदापुरम	108/2	00	00	78
		109	00	48	36
		130	00	01	75
		115	00	34	75
		129	00	14	05
		128	00	31	90
		143	00	26	77

पेन्पहाड़	महम्मदापुरम	नाला	00	03	92
		146/25	00	17	13
		146/1	00	21	73
		108/4	00	01	02
		108/3	00	09	83
पेन्पहाड़	सिंगारेड्डी पालेम	182	00	37	92
		181	00	04	36
		180/10	00	10	65
		180/11	00	17	91
		180/1	00	22	91
		180/16	00	04	39
		180/27	00	04	01
		180/30	00	00	39
		180/31	00	11	73
		180/32	00	12	07
		175	00	18	77
		180/34	00	16	63
		176	00	08	26
		180/35	00	03	88
		180/37	00	07	80
		180/38	00	13	45
		58	00	24	01
		57	00	61	71
		कच्चा रास्ता	00	04	40
		73	00	16	43
		76	00	39	50
		89	00	17	33

पेन्पहाड़	सिंगारेडु पालेम	85	00	08	23
		97	00	21	92
		98	00	19	60
		146	00	15	13
		105/5	00	01	29
		105/11	00	07	29
		118	00	34	92
		119	00	32	39
		121	00	16	76
		114	00	15	56
		113	00	01	91
		125	00	10	13
		126	00	10	74
		128	00	07	10

[फा. सं. आर-25011/3/2017-ओआर-आई/48335]

पवन कुमार, अवर सचिव

MINISTRY OF PETROLEUM AND NATURAL GAS

New Delhi, the 5th July, 2017

S.O. 1684.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the State of Telangana a pipeline should be laid for implementing Paradip - Hyderabad Pipeline Project under Paradip - Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. Narayana Rao, Competent Authority (Telangana), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 264/A, 2nd Floor, above Canara Bank, Road No. 10, Jubilee Hills, Hyderabad - 500 033 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE**District : Suryapet****State : Telangana**

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
Penpahad	Cheedella	433	00	13	60
		432	00	38	86
		431	00	32	73
		430	00	35	58
		429	00	14	72
		452	00	53	42
		453	00	64	20
		406	00	11	03
		460	00	32	48
		461	00	18	47
		377	00	08	94
		380/1	00	00	07
		372	00	01	01
		375	00	07	24
		373	00	15	40
		371	00	14	56
		357	00	11	13
		358	00	12	31
		353	00	10	91
		347	00	10	22
		348	00	23	63
		340	00	04	57
		341	00	09	37
		343	00	01	35
		342	00	08	66
		328	00	07	22
		329	00	10	67
		323/1	00	18	02
		323/5	00	00	14
		322	00	18	26
		320	00	06	58
		319	00	02	33
		318	00	26	33
		313	00	03	72
		314	00	12	82
		312	00	25	03
		311	00	00	03

Penpahad	Cheedella	286	00	48	94
		285	00	11	63
		282	00	24	45
		Nala	00	01	30
		9	00	39	11
		887	00	27	61
		886	00	46	01
		885	00	48	14
		884	00	35	71
		881	00	26	78
Penpahad	Gajulamalkapuram	239	00	02	89
		241	00	51	49
		242	00	21	61
		244/1	00	47	08
Penpahad	Macharam	164	00	05	16
		163	00	30	73
		166	00	23	71
		161	00	19	98
		151	00	34	15
		150	00	37	41
		149	00	32	27
		148	00	30	88
Penpahad	Penpahad	92	00	67	51
		94/1	00	11	22
		94/39	00	11	23
		94/40	00	00	34
		94/43	00	08	99
		94/42	00	10	48
		81	00	03	84
		82	00	01	91
		80	00	64	46
		94/38	00	01	42
		94/23	00	09	49
		94/25	00	06	66
		94/20	00	00	11
		94/22	00	09	99
		94/37	00	35	01
		94/17	00	21	15
		74	00	20	86

Penpahad	Penpahad	73	00	02	44
Penpahad	Mohammadapur	108/2	00	00	78
		109	00	48	36
		130	00	01	75
		115	00	34	75
		129	00	14	05
		128	00	31	90
		143	00	26	77
		Nala	00	03	92
		146/25	00	17	13
		146/1	00	21	73
		108/4	00	01	02
		108/3	00	09	83
Penpahad	Singareddy Palem	182	00	37	92
		181	00	04	36
		180/10	00	10	65
		180/11	00	17	91
		180/1	00	22	91
		180/16	00	04	39
		180/27	00	04	01
		180/30	00	00	39
		180/31	00	11	73
		180/32	00	12	07
		175	00	18	77
		180/34	00	16	63
		176	00	08	26
		180/35	00	03	88
		180/37	00	07	80
		180/38	00	13	45
		58	00	24	01
		57	00	61	71
		Cart Track	00	04	40
		73	00	16	43
		76	00	39	50
		89	00	17	33
		85	00	08	23
		97	00	21	92
		98	00	19	60
		146	00	15	13
		105/5	00	01	29

Penpahad	Singareddy Palem	105/11	00	07	29
		118	00	34	92
		119	00	32	39
		121	00	16	76
		114	00	15	56
		113	00	01	91
		125	00	10	13
		126	00	10	74
		128	00	07	10

[F. No. R-25011/3/2017-OR-I/48335]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 5 जुलाई, 2017

का.आ. 1685.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि तेलंगाना राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप - हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इससे ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. नारायणा राव, सक्षम प्राधिकारी (तेलंगाना), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, प्लॉट संख्या 264/ए, दूसरी मंजिल, कैनरा बैंक के ऊपर, मार्ग संख्या 10, जुबिली हिल्स, हैदराबाद-500033, तेलंगाना राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: सुर्यपेट

राज्य: तेलंगाना

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
सूर्यपेट	इमाम्पेट	225	00	66	44
		224	00	00	68

सूर्यपिट	इमाम्पेट	223	00	04	48
		247	00	19	78
		222	00	25	64
		249	00	40	82
		250	00	35	86
		251	00	33	02
		257	00	54	87
		260	00	25	16
		259	00	09	46
		264	00	29	54
		270	00	44	52
		275	00	26	16
		276	00	35	93
		277	00	01	88
		278	00	40	65
		283	00	37	66
		284	00	07	92
		285	00	25	58
		286	00	00	41
सूर्यपिट	ताल्लाखम्मंपाडु	58	00	46	66
		61	00	39	96
		62	00	25	95
		66	00	09	07
सूर्यपिट	कासराबाद	46	00	20	15
		45	00	19	01
		398	00	30	47

सूर्यपिट	कासराबाद	396	00	09	82
		373	00	17	70
		374	00	47	51
		369	00	49	03
		370	00	34	46
		49	00	09	13
सूर्यपिट	केसारम	239	00	17	29
		242	00	59	61
		243	00	43	03
		255	00	08	33
		256	00	26	78
		257	00	71	73
		259	00	16	62
		260	00	00	0.16
		262	00	00	58
		263	00	08	88
		266	00	02	73
		265	00	13	97
		270	00	06	96
		269	00	27	76
		272	00	07	78
सूर्यपिट	सूर्यपिट	480	00	13	22
		481	00	40	16
		482	00	34	20
		710	00	54	85
		711	00	29	06

सूर्यपेट	के. टी. अन्नारम	180	00	41	98
		181	00	27	70
		187	00	45	19
		189	00	19	98
		190	00	18	86
		191	00	16	10
		193	00	49	62
		202	00	05	21
		200	00	19	44

[फा. सं. आर-25011/3/2017-ओआर- आर/48335]

पवन कुमार, अवर सचिव

New Delhi, the 5th, July, 2017

S.O. 1685.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the State of Telangana a pipeline should be laid for implementing Paradip - Hyderabad Pipeline Project under Paradip - Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. Narayana Rao, Competent Authority (Telangana), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 264/A, 2nd Floor, above Canara Bank, Road No. 10, Jubilee Hills, Hyderabad - 500 033 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

District : Suryapet

State : Telangana

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
Suryapet	Imampet	225	00	66	44
		224	00	00	68

Suryapet	Imampet	223	00	04	48
		247	00	19	78
		222	00	25	64
		249	00	40	82
		250	00	35	86
		251	00	33	02
		257	00	54	87
		260	00	25	16
		259	00	09	46
		264	00	29	54
		270	00	44	52
		275	00	26	16
		276	00	35	93
		277	00	01	88
		278	00	40	65
		283	00	37	66
		284	00	07	92
		285	00	25	58
		286	00	00	41
Suryapet	Thallakhammampahad	58	00	46	66
		61	00	39	96
		62	00	25	95
		66	00	09	07
Suryapet	Kasarabad	46	00	20	15
		45	00	19	01
		398	00	30	47
		396	00	09	82
		373	00	17	70
		374	00	47	51
		369	00	49	03
		370	00	34	46
		49	00	09	13
Suryapet	Kesaram	239	00	17	29
		242	00	59	61
		243	00	43	03
		255	00	08	33
		256	00	26	78
		257	00	71	73
		259	00	16	62

Suryapet	Kesaram	260	00	00	0.16
		262	00	00	58
		263	00	08	88
		266	00	02	73
		265	00	13	97
		270	00	06	96
		269	00	27	76
		272	00	07	78
Suryapet	Suryapet	480	00	13	22
		481	00	40	16
		482	00	34	20
		710	00	54	85
		711	00	29	06
Suryapet	K T Annaram	180	00	41	98
		181	00	27	70
		187	00	45	19
		189	00	19	98
		190	00	18	86
		191	00	16	10
		193	00	49	62
		202	00	05	21
		200	00	19	44

[F. No. R-25011/3/2017-OR-I/48335]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 5 जुलाई, 2017

का.आ. 1686.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि तेलंगाना राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप - हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबन्ध में श्री एम. नारायणा राव, सक्षम प्राधिकारी (तेलंगाना), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, प्लॉट संख्या 264/ए, दूसरी

मंजिल, कैनरा बैंक के ऊपर, मार्ग संख्या 10, जुबिली हिल्स, हैदराबाद-500033, तेलंगाना राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: सुर्यापेट

राज्य: तेलंगाना

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
चिलुकूर	चिलुकूर	627	00	20	51
		626	00	02	28
		628	00	01	05
		625	00	33	43
		623	00	53	05
		622	00	18	39
		632	00	20	89
		621	00	28	73
		618	00	63	40
		611	00	47	46
		612	00	10	44
		610	00	32	88
		568	00	12	42
		567	00	36	39
	रास्ता		00	04	76
		333	00	00	93
		332	00	63	05
		331	00	14	93
		330	00	17	17
		337	00	18	64
		336	00	06	06

चिलुकूर	चिलुकूर	338	00	33	82
		384	00	37	33
		392	00	27	10
		380	00	04	04
		393	00	40	45
		379	00	09	87
		378	00	43	20
		376	00	06	44
	नहर		00	05	31
		375	00	20	49
	रास्ता		00	07	27
		203	00	09	27
		202	00	35	88
		195	00	19	54
		199	00	27	47
	नाला		00	02	38
		116	00	32	09
		128	00	47	67
		130/1	00	21	64
		129	00	00	26
		35	00	30	92
		125/2	00	32	63
		34	00	12	34
		33	00	28	69
		37	00	10	40
		38	00	28	57
		1390	00	18	69
		39	00	01	19

चिलुकूर	चिलुकूर	1387	00	18	78
		1386	00	00	0.23
		1388	00	40	76
		1382	00	29	59
		1334	00	59	65
		1327	00	39	11
		1326	00	18	82
		1292	00	24	32
		1296	00	46	56
		1295	00	49	49
		1239	00	44	43
		1238	00	29	81
		1237	00	16	38
		1235	00	38	37
		1310	00	21	42
		1234	00	02	74
चिलुकूर	कोंडापुरम	179	00	13	98
		180	00	30	65
		182	00	37	23
		185/3	00	53	71
		186	00	40	12
		188	00	11	04
		189/3	00	23	12
		189/2	00	08	91
		160/2	00	01	30
		189/1	00	00	79
		160/1	00	49	89
		159	00	17	37

चिलुकूर	कोंडापुरम	158	00	28	18
		14	00	23	99
		15	00	19	26
		17	00	03	29
		18	00	00	05
		49	00	31	84
		48	00	27	16
		45	00	11	02
		44	00	14	67
		43	00	10	56
		42	00	15	54
		341	00	29	38
		41	00	14	53
		88	00	14	85
		94	00	13	83
		95	00	03	22
		98	00	05	97
चिलुकूर	बेतवोलु	441	00	58	08
		336	00	24	91
		337	00	24	68
		334	00	00	88
		338	00	00	53
		349	00	36	57
		350	00	34	43
		363	00	39	98
		364	00	28	30
		365	00	12	66
		374	00	41	36

चिलुकूर	बेतवोलु	378	00	62	69
		379	00	04	41
		317	00	09	81
		316	00	22	26
		314	00	25	36
		313	00	13	58
		312	00	14	05
	रास्ता		00	03	82
		51	00	08	99
		52	00	11	54
		53	00	26	29
		57	00	29	39
		58	00	14	65
		59	00	26	76
		68	00	47	71
		80	00	23	95
		82	00	23	09
		83	00	25	27
		84	00	25	33
		85	00	21	33
		86	00	38	88
		87	00	05	52
		91	00	34	78
		90	00	36	18
		89	00	24	31
		2178	00	20	84

New Delhi, the 5th July, 2017

S.O. 1686.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the State of Telangana a pipeline should be laid for implementing Paradip - Hyderabad Pipeline Project under Paradip - Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. Narayana Rao, Competent Authority (Telangana), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 264/A, 2nd Floor, above Canara Bank, Road No. 10, Jubilee Hills, Hyderabad - 500 033 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

Encl.: Schedule Annexed.

SCHEDULE

District : Suryapet

State : Telangana

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
Chilkur	Chilkur	627	00	20	51
		626	00	02	28
		628	00	01	05
		625	00	33	43
		623	00	53	05
		622	00	18	39
		632	00	20	89
		621	00	28	73
		618	00	63	40
		611	00	47	46
		612	00	10	44
		610	00	32	88
		568	00	12	42
		567	00	36	39
	Road		00	04	76
		333	00	00	93
		332	00	63	05
		331	00	14	93
		330	00	17	17
		337	00	18	64
		336	00	06	06
		338	00	33	82
		384	00	37	33
		392	00	27	10

Chilkur	Chilkur	380	00	04	04
		393	00	40	45
		379	00	09	87
		378	00	43	20
		376	00	06	44
	Canal		00	05	31
		375	00	20	49
	Road		00	07	27
		203	00	09	27
		202	00	35	88
		195	00	19	54
		199	00	27	47
	Nala		00	02	38
		116	00	32	09
		128	00	47	67
		130/1	00	21	64
		129	00	00	26
		35	00	30	92
		125/2	00	32	63
		34	00	12	34
		33	00	28	69
		37	00	10	40
		38	00	28	57
		1390	00	18	69
		39	00	01	19
		1387	00	18	78
		1386	00	00	0.23
		1388	00	40	76
		1382	00	29	59
		1334	00	59	65
		1327	00	39	11
		1326	00	18	82
		1292	00	24	32
		1296	00	46	56
		1295	00	49	49
		1239	00	44	43
		1238	00	29	81
		1237	00	16	38
		1235	00	38	37
		1310	00	21	42
		1234	00	02	74

Chilkur	Kondapuram	179	00	13	98
		180	00	30	65
		182	00	37	23
		185/3	00	53	71
		186	00	40	12
		188	00	11	04
		189/3	00	23	12
		189/2	00	08	91
		160/2	00	01	30
		189/1	00	00	79
		160/1	00	49	89
		159	00	17	37
		158	00	28	18
		14	00	23	99
		15	00	19	26
		17	00	03	29
		18	00	00	05
		49	00	31	84
		48	00	27	16
		45	00	11	02
		44	00	14	67
		43	00	10	56
		42	00	15	54
		341	00	29	38
		41	00	14	53
		88	00	14	85
		94	00	13	83
		95	00	03	22
		98	00	05	97
Chilkur	Bethavolu	441	00	58	08
		336	00	24	91
		337	00	24	68
		334	00	00	88
		338	00	00	53
		349	00	36	57
		350	00	34	43
		363	00	39	98
		364	00	28	30
		365	00	12	66
		374	00	41	36
		378	00	62	69

Chilkur	Bethavolu	379	00	04	41
		317	00	09	81
		316	00	22	26
		314	00	25	36
		313	00	13	58
		312	00	14	05
	Road		00	03	82
		51	00	08	99
		52	00	11	54
		53	00	26	29
		57	00	29	39
		58	00	14	65
		59	00	26	76
		68	00	47	71
		80	00	23	95
		82	00	23	09
		83	00	25	27
		84	00	25	33
		85	00	21	33
		86	00	38	88
		87	00	05	52
		91	00	34	78
		90	00	36	18
		89	00	24	31
		2178	00	20	84

[F. No. R-25011/3/2017-OR-I/48335]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 5 जुलाई, 2017

का.आ. 1687.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि तेलंगाना राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप - हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबंध में श्री एम. नारायणा राव, सक्षम प्राधिकारी (तेलंगाना), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, प्लॉट संख्या 264/ए, दूसरी मंजिल, कैनरा बैंक के ऊपर, मार्ग संख्या 10, जुबिली हिल्स, हैदराबाद-500033, तेलंगाना राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: सुर्यापेट

राज्य: तेलंगाना

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
मुनगाला	गणपवरम	160/4	00	07	09
		160/3	00	08	75
		160/1	00	12	21
		163/2	00	01	63
		163/1	00	25	81
		162/2	00	23	29
		166/2	00	19	23
		166/1	00	10	46
		173	00	03	18
		172	00	25	98
		171/2	00	28	71
		170/2	00	00	72
		170/1	00	02	08
		171/1	00	05	87
मुनगाला	नेलमर्ली	392/4	00	10	99
		392/3	00	01	26
		392/1	00	09	14

मुनगाला	नेलमरी	391/2	00	25	23
		386/1	00	11	46
		384/2	00	28	29
		385/3	00	00	0.27
		385/2	00	12	27
		385/1	00	05	81
		383	00	27	19
		382/1	00	10	52
		382/2	00	13	52
		381	00	11	80
		380/2	00	03	11
		380/1	00	11	54
		379/1	00	29	40
		375	00	32	13
		163/2	00	19	08
		163/3	00	08	40
		163/12	00	01	35
		160/1	00	13	27
		159	00	17	36
		158	00	23	38
		157	00	33	73
		156	00	23	97
		140/2	00	04	16
		137	00	02	55
		138/1	00	07	09
		138/2	00	15	69
		139/1	00	15	51
		139/2	00	15	79
		133/1	00	14	03

मुन्नगाला	नेलमर्री	133/2	00	15	51
		128/3	00	19	53
		128/2	00	10	11
		129/2	00	24	38
		129/1	00	23	35
		126	00	02	29
		98	00	39	43
		120	00	06	76
		121	00	06	16
		118	00	42	52
		114	00	04	15
		113	00	37	71
		58/1	00	17	85
		59	00	13	01
		57/2	00	06	90
		57/1	00	27	84
		55/2	00	11	61
		55/1	00	09	38
		54	00	18	39
		53	00	34	23
		52	00	39	85
		31	00	24	93
		30	00	20	58
		6/5	00	05	65
		6/1	00	07	95
		6/4	00	11	66
		6/3	00	06	11
		6/2	00	06	58
		5/4	00	05	78

मुनगाला	नेलमरी	5/3	00	00	89
		5/2	00	33	75
		5/1	00	00	25

[फा. सं. आर-25011/3/2017-ओआर- आई /48335]

पवन कुमार, अवर सचिव

New Delhi, the 5th July, 2017

S.O. 1687.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the State of Telangana a pipeline should be laid for implementing Paradip - Hyderabad Pipeline Project under Paradip - Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. Narayana Rao, Competent Authority (Telangana), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 264/A, 2nd Floor, above Canara Bank, Road No. 10, Jubilee Hills, Hyderabad - 500 033 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE**District : Suryapet****State : Telangana**

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
Munagala	Ganapavaram	160/4	00	07	09
		160/3	00	08	75
		160/1	00	12	21
		163/2	00	01	63
		163/1	00	25	81
		162/2	00	23	29
		166/2	00	19	23
		166/1	00	10	46
		173	00	03	18
		172	00	25	98
		171/2	00	28	71
		170/2	00	00	72
		170/1	00	02	08
		171/1	00	05	87

Munagala	Nelamarri	392/4	00	10	99
		392/3	00	01	26
		392/1	00	09	14
		391/2	00	25	23
		386/1	00	11	46
		384/2	00	28	29
		385/3	00	00	0.27
		385/2	00	12	27
		385/1	00	05	81
		383	00	27	19
		382/1	00	10	52
		382/2	00	13	52
		381	00	11	80
		380/2	00	03	11
		380/1	00	11	54
		379/1	00	29	40
		375	00	32	13
		163/2	00	19	08
		163/3	00	08	40
		163/12	00	01	35
		160/1	00	13	27
		159	00	17	36
		158	00	23	38
		157	00	33	73
		156	00	23	97
		140/2	00	04	16
		137	00	02	55
		138/1	00	07	09
		138/2	00	15	69
		139/1	00	15	51
		139/2	00	15	79
		133/1	00	14	03
		133/2	00	15	51
		128/3	00	19	53
		128/2	00	10	11
		129/2	00	24	38
		129/1	00	23	35
		126	00	02	29
		98	00	39	43
		120	00	06	76
		121	00	06	16

Munagala	Nelamarri	118	00	42	52
		114	00	04	15
		113	00	37	71
		58/1	00	17	85
		59	00	13	01
		57/2	00	06	90
		57/1	00	27	84
		55/2	00	11	61
		55/1	00	09	38
		54	00	18	39
		53	00	34	23
		52	00	39	85
		31	00	24	93
		30	00	20	58
		6/5	00	05	65
		6/1	00	07	95
		6/4	00	11	66
		6/3	00	06	11
		6/2	00	06	58
		5/4	00	05	78
		5/3	00	00	89
		5/2	00	33	75
		5/1	00	00	25

[F. No. R-25011/3/2017-OR-I/48335]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 5 जुलाई, 2017

का.आ. 1688.—केंद्रीय सरकार को ऐसा प्रतीत होता है कि लोक हित में यह आवश्यक है कि तेलंगाना राज्य में पेट्रोलियम उत्पादों के परिवहन के लिए पारादीप - हैदराबाद पाइपलाइन परियोजना के क्रियान्वयन हेतु इंडियन ऑयल कॉर्पोरेशन लिमिटेड द्वारा पाइपलाइन बिछाई जानी चाहिए;

और केंद्रीय सरकार को ऐसी पाइपलाइन बिछाने के प्रयोजन के लिए यह आवश्यक प्रतीत होता है कि ऐसी भूमि में जो इस से ऊपाबद्ध अनुसूची में वर्णित है, और जिसमें उक्त पाइपलाइन बिछाई जाने का प्रस्ताव है, उपयोग के अधिकार का अर्जन किया जाए;

अतः अब, केंद्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन्स (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए उस भूमि में उपयोग के अधिकार का अर्जन करने के अपने आशय की घोषणा करती है;

कोई भी व्यक्ति, जो उक्त अनुसूची में वर्णित भूमि में हितबद्ध है, उस तारीख से, जिसको इस अधिसूचना में युक्त भारत के राजपत्र की प्रतियाँ साधारण जनता को उपलब्ध करा दी जाती हैं, इक्कीस (21) दिन के भीतर, भूमि के नीचे पाइपलाइन

बिछाए जाने के लिए उसमें उपयोग के अधिकार के संबंध में श्री एम. नारायणा राव, सक्षम प्राधिकारी (तेलंगाना), इंडियन ऑयल कॉर्पोरेशन लिमिटेड (पाइपलाइन प्रभाग), पारादीप-हैदराबाद पाइपलाइन परियोजना, प्लॉट संख्या 264/ए, दूसरी मंजिल, कैनरा बैंक के ऊपर, मार्ग संख्या 10, जुबिली हिल्स, हैदराबाद-500033, तेलंगाना राज्य को लिखित रूप से आक्षेप भेज सकेगा।

अनुसूची

जिला: सुर्यपेट

राज्य: तेलंगाना

मंडल का नाम	ग्राम का नाम	सर्वे नम्बर	क्षेत्रफल		
			हेक्टेयर	एयर	वर्ग मीटर
(1)	(2)	(3)	(4)	(5)	(6)
कोदाडा	कूचिपूडि	119	00	14	73
		122	00	00	43
		121	00	02	74
		123	00	46	94
		103	00	08	35
		104	00	02	46
		105	00	14	19
		99	00	14	34
		76	00	34	92
		77	00	17	66
		78	00	00	03
		80	00	11	98
		79	00	16	06
		84	00	03	93
		64	00	15	91
		62	00	14	46
		56	00	22	99
		58	00	05	71
		57	00	06	76
		नाला	00	01	89

कोदाडा	कूचिपूडि	37	00	03	45
		36	00	15	77
		635	00	35	29
		636	00	00	17
		634	00	06	46
		637	00	28	35
		615	00	05	56
कोदाडा	कापुगल्लु	441	00	00	37
		523/1	00	39	82
	कच्चा रास्ता		00	02	29
		523/2	00	14	69
		524/1	00	04	03
		522/1	00	56	16
		561/1	00	37	83
		527	00	02	23
		563	00	00	06
		560	00	29	57
		564	00	51	24
		565	00	33	13
	कच्चा रास्ता		00	02	63
		624	00	38	09
		623	00	47	76
		622	00	27	17
		619/1	00	07	66
		621/1	00	23	92
		651/1	00	35	58
		653/1	00	31	76

कोदाडा	कापुगल्लु	655	00	27	46
		656	00	22	59
		662	00	10	21
		661	00	21	26
कोदाडा	तोगरई	170	00	13	54
		169	00	17	21
		177	00	58	00
		166	00	17	38
		165	00	18	21
		163	00	30	09
		162	00	30	07
		161	00	43	83
		159	00	36	44
		158	00	53	44
		155	00	29	58
	रास्ता		00	01	93
		104	00	19	55
		109	00	64	62
		111	00	17	23
		100	00	52	47

[फा. सं. आर-25011/3/2017-ओआर- आई /48335]

पवन कुमार, अवर सचिव

New Delhi, the 5th July, 2017

S.O. 1688.—Whereas, it appears to the Central Government, that it is necessary in the public interest that for the transportation of petroleum products in the State of Telangana a pipeline should be laid for implementing Paradip - Hyderabad Pipeline Project under Paradip - Hyderabad Pipeline by the Indian Oil Corporation Limited;

And whereas, it appears to the Central Government that for the purpose of laying the said pipeline, it is necessary to acquire the right of user in the land under which the said pipeline is proposed to be laid, and which is described in the Schedule annexed to this notification;

Now, therefore, in exercise of the powers conferred by Sub Section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Any person who is interested in the land described in the said schedule, may submit objection in writing to Shri. M. Narayana Rao, Competent Authority (Telangana), Indian Oil Corporation Limited (Pipelines Division), Paradip Hyderabad Pipeline Project, Plot No. 264/A, 2nd Floor, above Canara Bank, Road No. 10, Jubilee Hills, Hyderabad - 500 033 within twenty one (21) days from the date on which the copies of this notification issued under Sub-section (1) of Section 3 of the said Act, as published in the Gazette of India, are made available to the general public.

SCHEDULE

District : Suryapet

State : Telangana

Name of Mandal	Name of Village	Survey No.	Area		
			Hectare	Are	Square Metre
(1)	(2)	(3)	(4)	(5)	(6)
Kodad	Kuchipudi	119	00	14	73
		122	00	00	43
		121	00	02	74
		123	00	46	94
		103	00	08	35
		104	00	02	46
		105	00	14	19
		99	00	14	34
		76	00	34	92
		77	00	17	66
		78	00	00	03
		80	00	11	98
		79	00	16	06
		84	00	03	93
		64	00	15	91
		62	00	14	46
		56	00	22	99
		58	00	05	71
		57	00	06	76
		Nala	00	01	89
		37	00	03	45
		36	00	15	77
		635	00	35	29
		636	00	00	17
		634	00	06	46
		637	00	28	35
		615	00	05	56
Kodad	Kapugallu	441	00	00	37
		523/1	00	39	82

Kodad	Kapugallu	Cart Track	00	02	29
		523/2	00	14	69
		524/1	00	04	03
		522/1	00	56	16
		561/1	00	37	83
		527	00	02	23
		563	00	00	06
		560	00	29	57
		564	00	51	24
		565	00	33	13
		Cart Track	00	02	63
		624	00	38	09
		623	00	47	76
		622	00	27	17
		619/1	00	07	66
		621/1	00	23	92
		651/1	00	35	58
		653/1	00	31	76
		655	00	27	46
		656	00	22	59
		662	00	10	21
		661	00	21	26
Kodad	Togarrai	170	00	13	54
		169	00	17	21
		177	00	58	00
		166	00	17	38
		165	00	18	21
		163	00	30	09
		162	00	30	07
		161	00	43	83
		159	00	36	44
		158	00	53	44
		155	00	29	58
		Road	00	01	93
		104	00	19	55
		109	00	64	62
		111	00	17	23
		100	00	52	47

[F. No. R-25011/3/2017-OR-I/48335]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 11 जुलाई, 2017

का.आ. 1689.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन जारी भारत के राजपत्र के भाग II, खंड 3, उपखंड (ii) के अंतर्गत संख्या 866, 28 मार्च 2017 को प्रकाशित, भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 967(अ) तारीख 24 मार्च 2017 की इस अधिसूचना में केंद्र सरकार निम्नलिखित संशोधन करती है—

28 मार्च 2017 को प्रकाशित अधिसूचना संख्या का. आ. 967(अ) तारीख 24 मार्च 2017 में —

- 1 पृष्ठ सं. 2 के हिन्दी व अँग्रेजी पाठ में ग्राम तिरुवानकुलम खंड सं. 19 के अन्तर्गत प्रकाशित सभी सर्वे नम्बर, ग्राम तिरुवानकुलम खंड सं. 10 के अन्तर्गत पढ़े व समझे जाए
- 2 पृष्ठ सं. 2 के अँग्रेजी पाठ में ग्राम मणकुन्म के अन्तर्गत प्रकाशित सभी सर्वे नम्बर, ग्राम मणकुन्म खंड सं. 19 के अन्तर्गत पढ़े व समझे जाए ।

[फा. सं. 31015/4/2015—ओआर—II/37111]

पवन कुमार, अवर सचिव

New Delhi, the 11th July, 2017

S.O. 1689.—In exercise of the powers conferred by Sub-section (1) of section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (Central Act 50 of 1962) the Central Government hereby makes the following amendments in the notification of the Government of India in the Ministry of Petroleum & Natural Gas S.O. 967 (E) dated 24th March 2017 published in page Nos. 1 to 2 in Part II, section 3, sub-section (ii) of the Gazette of India No. 866 dated 28th March 2017 namely.

In the notification SO No.967 (E) dated 24th March 2017 published in the Gazette on 28th March 2017.

1. At Page No. 2 all survey No. published under village Thiruvankulam Block. No. 19 shall be considered and read under Thiruvankulam village Block. No. 10 in both English version and Hindi version.
2. At page No. 2, all survey No. published under village Manakunnam shall be considered and read under Manakunnam Village Block. No. 19 in English version.

[F. No. 31015/4/2015/OR-II/37111]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 11 जुलाई, 2017

का. आ. 1690.—केन्द्रीय सरकार ने पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार के अर्जन) अधिनियम, 1962 (1962 का 50) (जिसे इसमें इसके पश्चात उक्त अधिनियम कहा गया) की धारा 3 की उपधारा (1) के अधीन जारी की गई भारत सरकार के पेट्रोलियम एवं गैस मन्त्रालय की अधिसूचना सं. का. आ. 909(अ) तारीख 23 मार्च 2015 जो भारत के राजपत्र सं. 680 तारीख 1 अप्रैल 2015 को प्रकाशित की गई थी, द्वारा उस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट भूमि में केरल राज्य में भारत पेट्रोलियम कार्पोरेशन लिमिटेड की कोच्चि रिफानरी से सेलम तक द्रवित पेट्रोलियम गैस के परिवहन के लिए कोच्चि कोयम्बटूर सेलम पाइपलाइन परियोजना के माध्यम से कोच्चि सेलम पाइपलाइन प्राइवेट लिमिटेड द्वारा एक पाइपलाइन बिछाने के प्रयोजन के लिए उपयोग के अधिकार का अर्जन के अपने आशय की घोषणा की थी;

और उक्त राजपत्र अधिसूचना की प्रतियां जनता को तारीख 27 मई 2015 से 30 जून 2015 के बीच उपलब्ध करा दी गई थी ;

और सक्षम प्राधिकारी ने, उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन , केंद्रीय सरकार को अपनी रिपोर्ट दे दी है ;

और केंद्रीय सरकार ने , उक्त रिपोर्ट पर विचार करने के पश्चात, और यह समाधान हो जाने पर की उक्त भूमि पाइपलाइन बिछाने के लिए अपेक्षित है ,उसमें उपयोग के अधिकार का अर्जन करने का विनिश्चय किया है ;

अतः अब केंद्रीय सरकार, उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह घोषणा करती है कि इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमि में पाइपलाइन बिछाने के उपयोग के अधिकार का अर्जन किया जाता है ;

और केंद्रीय सरकार उक्त अधिनियम कि धारा 6 कि उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, यह निर्देश देती है कि उक्त भूमि में उपयोग का अधिकार इस घोषणा के प्रकाशन की तारीख को केंद्रीय सरकार में निहित होने कि बजाए, सभी विल्लंगों से मुक्त, कोच्चि सेलम पाइपलाइन प्राइवेट लिमिटेड में निहित होगा।

अनुसूची

राज्य: केरल

जिला: ऐरनाकुलम

तालुक: कणयन्नूर

नाम ग्राम	सर्वे नम्बर	क्षेत्रफल		
		हेक्टेयर	एरिया	वर्गमीटर
तिरुवानकुलम (खंड सं 10)	557/7	0	03	59

[फा. सं. आर-31015/4/2015-ओआर-II/37111]

पवन कुमार, अवर सचिव

New Delhi, the 11th July, 2017

S.O. 1690.—Whereas by the notification of the Government of India in the Ministry of Petroleum and Natural Gas SO No. 909 (E), dated 23/03/2015 published in Govt. of India Gazette No. 680 dated 01/04/2015 issued under sub section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (Central Act 50 of 1962) (herein after referred to as said Act), the Central Government declared its intention to acquire the Right of User in the land specified in the schedule appended to that notification for the purpose of laying pipeline for the transportation of Liquefied Petroleum Gas from Kochi Refinery of Bharat Petroleum Corporation Limited in the State of Kerala to Salem in the State of Tamilnadu.

AND, whereas, the copies of the said Gazette notifications have been made available to the public between 27/05/2015 to 30/06/2015

AND, whereas, the Competent Authority in pursuance of sub-section (1) of section 6 of the said Act has submitted his report to the Central Government.

AND, whereas, the Central Government, after considering the said report, is satisfied that the Right of User in the said land specified in the schedule appended should be acquired.

Now, therefore in exercise of the powers conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declared that the Right of User in the Land specified in the schedule appended to this notification are hereby acquired.

AND, further, in exercise of powers conferred by sub-section (4) of the section 6 of the said Act, the Central Government hereby directs that the Right of User in the said lands shall, instead of vesting in the Central Government vest free from all encumbrances in the Kochi – Salem Pipeline Private Limited.

SCHEDULE

STATE : KERALA

DISTRICT : ERNAKULAM

TALUK : KANAYANNUR

VILLAGE	SURVEY NUMBERS	AREA		
		HECTARES	ARES	SQ MTRS
THIRUVANKULAM (BLOCK . NO. 10)	557/7	0	03	59

[F. No. R.31015/4/2015-OR-II/37111]

PAWAN KUMAR, Under Secy.

नई दिल्ली, 11 जुलाई, 2017

का.आ. 1691.—केन्द्रीय सरकार, पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 6 की उपधारा (4) के अधीन जारी भारत के राजपत्र के भाग II, खंड 3, उपखंड (ii) के अंतर्गत संख्या 2427, 05 अक्टूबर 2016 को प्रकाशित, भारत सरकार के पेट्रोलियम एवं प्राकृतिक गैस मंत्रालय की अधिसूचना संख्या का. आ. 3151(अ) तारीख 3 अक्टूबर 2016 की इस अधिसूचना के अंग्रेजी पाठ में केंद्र सरकार निम्नलिखित संशोधन करती है—

5 अक्टूबर 2016 को प्रकाशित अधिसूचना संख्या का. आ. 3151(अ) तारीख 3 अक्टूबर 2016 में पृष्ठ सं. 2 परिच्छेद सं. 2 पर, अंग्रेजी पाठ में 1 जून 2016 से 27 जून 2016 के स्थान पर 6 जून 2016 से 27 जून 2016 पढ़ा जाए।

[फा. सं. 31015/4/2015-ओआर-II/37111]

पवन कुमार, अवर सचिव

New Delhi, the 11th July, 2017

S.O. 1691.—In exercise of the powers conferred by sub-section (i) of Section 6 of the Petroleum and Mineral Pipeline (Acquisition of Right of User in Land Act 1962, (Central Act of 50 of 1962), the Central Govt. hereby makes the following amendment in the notification of the Govt. of India in the Ministry of Petroleum and Natural Gas S.O. No. 3151 (E) dated 03/10/2016 published in pages 1 to 3 in part II section 3 sub-section (ii) of the Gazette of India No. 2427 dated 05/10/2016 namely.

In the notification SO 3151 (E) dated 03/10/2016 published in the Gazette on 05/10/2016 at page No. 2 the date mentioned in the second paragraph of preamble to notification in English version shall be considered and read 6th June 2016 to 27th June 2016 in place of 1st June 2016 to 27th June 2016.

[F. No. 31015/4/2015-OR-II/37111]

PAWAN KUMAR, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 12 जुलाई, 2017

का.आ. 1692.— केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 (यथासंशोधित, 1987) के नियम 10 के उप-नियम (4) के अनुसरण में, श्रम और रोजगार मंत्रालय के प्रशासकीय नियंत्रणाधीन निम्नलिखित कार्यालयों को, जिनके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है, एतद्वारा अधिसूचित करती है :

01. कर्मचारी राज्य बीमा निगम अस्पताल, मानेसर

[सं. ई-11016/1/2017-रा.भा.नि.]

देवेन्द्र सिंह, आर्थिक सलाहकार

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 12th July, 2017

S.O. 1692.—In pursuances of Sub-Rule (4) of Rule 10 of the Official Languages (Use for official purposes of the Union) Rules, 1976 (as amended, 1987) the Central Government hereby notifies the following office under the administrative control of the Ministry of Labour & Employment, more than 80% Staff where of have acquired working knowledge of Hindi :

01. ESIC Hospital, Manesar

[No. E-11016/1/2017-RBN]

DEVENDER SINGH, Economic Adviser

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1693.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 31/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6.7.2017 को प्राप्त हुआ था।

[सं. एल. 22012/207/2005-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 13th July, 2017

S.O. 1693.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 31/2006) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure, in the industrial dispute between the management of M/s. ECL, and their workmen, received by the Central Government on 6.7.2017

[No. L-22012/207/2005 - IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL**

PRESENT : Shri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 31 OF 2006

PARTIES : The management of 3 & 4 Incline Jhanjra Area of M/s. E.C.L.

V/s

Shri Sudhir Bhuia

REPRESENTATIVES:

For the management : Shri P. K. Das, Learned Advocate

For the union (Workman) : Shri S. K. Pandey, Learned Union Representative

Industry : Coal State : West Bengal

Dated : 09.06.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour *vide* its letter No. L-22012/207/2005–IR(CM-II) dated 31.07.2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“ Whether the action of the management of 3 & 4 Incline, Jhanjra Area of M/s. Eastern Coalfields Limited in dismissing Sh. Sudhir Bhuia, Timber Mistry U.M. No. 693474 w.e.f. 21.9.04 is legal and justified? If not, to what relief is the workman entitled? ”

1. Having received the Order No. L-22012/207/2005–IR(CM-II) dated 31.07.2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 31 of 2006 was registered on 14.08.2006. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The ex-workman, Shri Sudhir Bhuia (now deceased) through union representative has filed written statement. He has alleged in his written statement that he was in permanent employment as Timber Helper at Jhanjra 3 & 4 Incline of M/s. Eastern Coalfields Limited bearing Man No. 693474. Due to sickness he was absent from duty with effect from 15.01.2004 to 30.03.2004. He reported for his duty with Sick Certificate etc, but he was not allowed to resume his duty, rather he was chargesheeted vide Chargesheet No. AGT/JNR/3&4/04/63 dated 31.03.2004 for alleged unauthorized absence, which was beyond his control. The workman replied to the Chargesheet and appeared before the Enquiry Officer. He also submitted all his treatment papers, etc. for the perusal of the Enquiry Officer. Though, the workman gave sufficient document to prove that he was bed-ridden in the period mentioned in the Chargesheet, but the Enquiry Officer intentionally proved the charges as alleged in the Chargesheet. The management representative who appeared as a witness stated all the false allegations against the concerned workman. The finding of the Enquiry Officer was not based on enquiry records and the enquiry is against the principle of natural justice. The Enquiry Officer was highly prejudiced and biased against the concerned workman. From the date of dismissal the concerned workman is sitting idle without any job. The dismissal of Shri Sudhir Bhuia from the service of the company is illegal and unjustified. The workman has prayed that the management of Jhanjra 3 & 4 Incline of M/s. Eastern Coalfields Limited may be directed to reinstate the workman in service with payment of full back wages for the period from the date of dismissal with all consequential benefits.

3. The Agent of 3 & 4 Incline, Jhanjra Project under Jhanjra Area of M/s. Eastern Coalfields Limited has denied the allegation of the ex-workman. He has alleged in his written statement that ex-workman Shri Sudhir Bhuia was absenting from his duty since 15.01.2004 continuously without any permission or information and without satisfactory

cause and the ex-workman was in habit of absenting from duty unauthorizedly and as such the ex-workman was chargesheeted under Clause 26.29 and 26.23 vide Chargesheet No. CGM/JNR/PER/08/2004/1195 dated 26/28.07.2004. The ex-workman failed to submit any satisfactory reply to the Chargesheet. Therefore, a domestic enquiry was held into the said charges by the Enquiry Officer who conducted the enquiry in presence of the delinquent. The delinquent was afforded all reasonable opportunities to defend his case in accordance with the principle of natural justice. The charge of misconduct was fully established by the Enquiry Officer and the Enquiry Officer submitted his report. The competent Authority issued 2nd Show-Cause Notice to ex-workman, the explanation of workman was found unsatisfactory. The Disciplinary Authority after perusal of the relevant documents passed the dismissal order dated 10/21.09.2001. The Agent of 3 & 4 Incline, Jhanjra Project under Jhanjra Area of M/s. Eastern Coalfields Limited has denied that the workman was absent due to his sickness or the workman was bed-ridden. The punishment of dismissal is justified. The workman is not entitled to any relief.

4. The workman has filed the following documentary evidences :-

(i) Photocopy of the Letter (termination of service) No. CGM/JNR/PER/08/2004/734 dated 18/21.09.2001, (ii) Photocopy of the Reply of the workman to the Chargesheet, (iii) Photocopy of the 2nd Show-Cause Notice bearing No. CGM/JNR/PER/08/2004/1195 dated 26/28.07.2004, (iv) Photocopy of the Enquiry Officer's Report, (v) Photocopy of the Enquiry proceeding dated 04.05.2004, (vi) Photocopy of the Letter No. AGT/JNR/3&4/04/20 dated 28.04.2004, (vii) Photocopy of the Chargesheet bearing No. AGT/JNR/3&4/C-6/04/63 dated 31.03.2004, (viii) Photocopy of the Death Certificate of Shri Sudhir Bhuia and (ix) Photocopy of the Substitution Petition of Smt. Sangita Bhuia.

The Agent of 3 & 4 Incline, Jhanjra Project under Jhanjra Area of M/s. Eastern Coalfields Limited has not filed any documentary or oral evidence. Neither party to the reference has examined any witness.

5. I have heard the argument of Shri S. K. Pandey, learned union representative on behalf of Shri Sudhir Bhuia, ex-workman (now deceased) and Shri P. K. Das, learned Advocate on behalf of 3 & 4 Incline, Jhanjra Project under Jhanjra Area of M/s. Eastern Coalfields Limited.

6. Shri S. K. Pandey, learned union representative has argued that the workman was absent for a mere period of 2½ (Two and Half months) under compelling circumstances being sick. He was not afforded reasonable opportunity to defend himself. He was not afforded opportunity of cross-examination. The workman was illiterate and due to mental torture he expired during pendency of the Reference. On the other hand, Shri P. K. Das, learned Advocate has argued that the enquiry was conducted in accordance with the principles of natural justice. The punishment of dismissal is justified.

7. It is admitted fact that Shri Sudhir Bhuia, ex-workman was in employment as Timber Helper at 3 & 4 Incline, Jhanjra Project under Jhanjra Area of M/s. Eastern Coalfields Limited. It is also admitted fact that he was absent from duty since 15.01.2004 to 30.03.2004. His absence was enquired into in domestic enquiry. After domestic enquiry he was dismissed from service on 21.09.2004. The workman has challenged the enquiry proceeding being devoid of principle of natural justice. The contention of workman is that he was absent under compelling circumstances being sick, which has been denied by the Agent of 3 & 4 Incline, Jhanjra Project under Jhanjra Area of M/s. Eastern Coalfields Limited. At the very outset it is relevant to mention that delinquent workman Shri Sudhir Bhuia expired on 09.09.2007 during pendency of this Reference. His wife Smt. Sangita Bhuia has been substituted on 01.12.2009 by this Tribunal.

8. Framing of charge is the first step taken for holding enquiry into the allegation on the decision taken to initiate disciplinary proceeding. The Chargesheet was framed on the basis of the allegations made against the delinquent employee. The Chargesheet was then served on him to enable him to submit his explanation. If the explanation is satisfactory, the proceeding may be closed, otherwise domestic enquiry can be held into the charge. If the charges are proved the penalty follows. The workman can only submit his proper explanation if the charges are properly framed and the copies of relevant documents are supplied to the workman at the time of serving the Chargesheet, so that he may submit proper explanation for perusal of the competent authority. Chargesheet is the foundation of domestic enquiry. Before proceeding with the domestic enquiry, the delinquent workman must be informed clearly, precisely and accurately of the charges levelled against him. It is the duty of the Employer / Competent Authority to indicate the delinquent workman not only the precise nature of the charges but also the documents upon which the charges are based. The Chargesheet should specifically mention the relevant documents upon which the workman is called upon to Show-Cause, without which he can not submit proper explanation and defend himself. The object of framing charge is that the delinquent workman not only must know what he is charged with but also to meet the charge and to defend himself by giving proper explanation. If the copies of documents and name of witnesses are not supplied then the delinquent workman can never meet the charges and submit proper explanation. It is, rather more necessary where the workman is illiterate. On perusal of Chargesheet it is manifestly clear that the delinquent ex-workman (now deceased) was not supplied copies of documents, attendance register, even names of witness was not disclosed to him. Apparently it is violation of principle of natural justice.

Hon'ble Apex Court in Brij Bihari Singh v/s. Bihar State Financial Corporation, 2016 (148) FLR page 197 has held:

"It is well settled that a person who is required to answer a charge imposed should know not only the accusation but also the testimony by which the accusation is supported."

9. Shri R. N. Chatterjee (O.S.) was examined as management witness on 04.05.2004, though his name was not mentioned in the Chargesheet issued to the workman. Shri R. N. Chatterjee, management witness has deposed in his evidence regarding Form "C" Register and Form 'G' and 'H' Registers. But the copies of those registers have not been supplied to the delinquent workman. Even surprising enough, copies of those documents have not been filed in enquiry proceeding nor it have been filed on the file of reference of this Tribunal. The delinquent workman was not afforded opportunity of cross-examination of management witness Shri R. N. Chatterjee. The Enquiry Officer has written in the enquiry proceeding that chargesheeted workman did not cross-examine the management representative. Whether the delinquent workman was asked to cross-examine the management witness? The Enquiry Officer ought to have recorded that delinquent workman was offered opportunity of cross-examination. If the delinquent workman was unable to cross-examine on the very date of examination-in-chief, then Enquiry Officer ought to have adjourned for next date and even then if the delinquent workman failed to cross-examine the management witness, then domestic enquiry should proceed. From enquiry proceeding it is apparent that delinquent workman was not afforded opportunity of cross examination.

10. Hon'ble Supreme Court in Ayaubkhan Noorkhan Pathan v/s. State of Maharashtra & Others, reported in AIR 2013 SC 58 has observed that cross-examination is an integral part of the principle of natural justice. If the delinquent had no opportunity to cross-examine the witness, the same can not be relied upon. In view of the law laid down by the Hon'ble Apex Court, since the opportunity has not been afforded to the delinquent, then examination-in-chief of management witness cannot be relied upon.

11. On perusal of Enquiry Proceeding it is apparent that the Enquiry Officer has conducted all the proceedings, examination-in-chief, statement of delinquent and cross-examination of delinquent in one day i.e. on 04.05.2004. The delinquent workman submitted his medical paper during enquiry proceeding, but no finding has been recorded in this regard. The Enquiry Officer has mentioned in his enquiry report dated 08.05.2004 that the workman is suffering from Peptic Ulcer as per certificate submitted by him which is not a disease in which a person should remained bed-ridden. Obviously Shri R. N. Chatterjee, (O.S) is not a medical expert. Without seeking doctor's opinion his inexperienced opinion cannot be relied upon. It was better if the Enquiry Officer seek the opinion of doctor regarding medical certificate submitted by delinquent workman. In Krushnakant B. Parmar v/s. Union Of India & Another, reported in 2012 (132) FLR page 1023 Hon'ble Apex Court has held that :

"if the absence is the result of compelling circumstances under which it was not possible to report or perform duty, such absence cannot be held to be willful. Absence from duty without any application or prior permission may amount to unauthorized absence, but does not always mean willful. There may be different eventualities due to which an employee may abstain from duty including compelling circumstances beyond his control like illness, accident, at hospitalization etc. But in such a case the employee cannot be held guilty of failure of devotion to duty. The Disciplinary Authority required to prove that the absence was willful. In absence of such finding, an absence will not amount to misconduct."

The Enquiry Officer has not recorded any finding that the absence of delinquent workman Shri Sudhir Bhuiawas willful, even no opinion of doctor was called for regarding medical papers submitted by workman, neither it was sent for verification. If the medical papers were genuine, then absence of workman will not be willful.

12. The enquiry has been conducted in utter violation of principle of natural justice. The workman was not supplied with the copies of the documents for which he was charged with. He was not afforded the opportunity of cross-examination of the management witness. Even his defence evidence was not considered. His medical papers were not verified. The Hon'ble Supreme Court in S .L. Kapoor v/s. Jagmohan and Others reported in AIR 1981 SC page 136 has held that :

"Natural justice is an inbuilt and inseparably ingredients of fairness and reasonableness. Strict adherence to the principle is require, whenever civil consequences follow up, as a result of the order passed. Natural justice is an universal justice. In certain factual circumstances even non observance of the rules will itself result any object. Thus this principle is of supreme importance."

13. The workman has alleged in Para-10 of his written statement that he is sitting without any job though this fact has been denied by the Agent of Jhanjra 3 & 4 Incline of M/s. Eastern Coalfields Limited. But evasive denial will not disentitle the workman for back-wages.

The Hon'ble Apex Court in Hindustan Tin Works Pvt. Ltd. V/s. Employees of Hindustan Tin Works Private Limited (1979) 2 SCC 80 has held that :

“The relief of reinstatement with continuity of service can be granted where termination of service is found to be invalid. It would mean that the employer has taken away illegally the right to work of the workman contrary to the relevant law or in breach of contract and simultaneously deprived the workman of his earnings. If thus the employer is found to be in the wrong as a result of which the workman is directed to be reinstated, the employer could not shirk his responsibility of paying the wages which the workman has been deprived of by the illegal or invalid action of the employer. Speaking realistically, where termination of service is questioned as invalid or illegal and the workman has to go through the gamut of litigation, his capacity to sustain himself throughout the protracted litigation is itself such an awesome factor that he may not survive to see the day when relief is granted. More so in our system where the law's proverbial delay has become stupefying. If after such a protracted time and energy consuming litigation during which period the workman just sustains himself, ultimately he is to be told that though he will be reinstated, he will be denied the back wages which would be due to him, the workman would be subjected to a sort of penalty for no fault of his and it is wholly undeserved. Ordinarily, therefore, a workman whose service has been illegally terminated would be entitled to full back wages except to the extent he was gainfully employed during the enforced idleness. That is the normal rule.”

14. In view of law laid down by the Hon'ble Apex Court Shri Sudhir Bhuia is entitled for full back wages from the date of dismissal i.e. from 21.09.2004. At the cost of repetition it may be stated that Shri Sudhir Bhuia expired on 09.09.2007 during the pendency of Reference. Therefore, question of reinstatement does not arise. His wife Smt. Sangita Bhuia has been substituted in place of her deceased husband Shri Sudhir Bhuia. She will be entitled for back wages.

15. In view of the above discussion, the action of management of 3 & 4 Incline, Jhanjra Project under Jhanjra Area of M/s. Eastern Coalfields Limited in dismissing Shri Sudhir Bhuia (now deceased), Timber Mistry, U. M No. 693474 is illegal and unjustified. The order of dismissal of Shri Sudhir Bhuia (now deceased) is set-aside. It is directed that Smt. Sangita Bhuia, the wife of deceased workman Shri Sudhir Bhuia will get full back wages from the date of dismissal i.e. 21.09.2004 till the death of Shri Sudhir Bhuia i.e. till 09.09.2007. The deceased workman Late Shri Sudhir Bhuia will be imposed punishment of stoppage of 2 (Two) annual increments without cumulative effect.

ORDER

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1694.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बीसीसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 47/2006) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6.7.2017 को प्राप्त हुआ था।

[सं. एल-22012/240/2005-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 13th July, 2017

S.O. 1694.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 47/2006) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure, in the industrial dispute between the management of M/s. BCCL, and their workmen, received by the Central Government on 6.7.2017

[No. L-22012/240/2005 - IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Shri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 47 OF 2006

PARTIES: The Management of Damagoria Colliery of M/s. B.C.C.L.

V/s.

Shri Parmeshwar Tiwari

REPRESENTATIVES:

For the management : Shri P. K. Das, Learned Advocate

For the union (Workman) : Shri S. K. Pandey, Learned Union Representative

INDUSTRY : COAL STATE : WEST BENGAL

Dated : 21.06.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/240/2005–IR(CM-II) dated 03.08.2006 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the demand of the Koyala Mazdoor Congress from the Management of BCCL, Damagoria Colliery that Shri Parmeshwar Tiwari may be treated as regular “Tripman” w.e.f. 16.11.1999 with all consequential benefits with effect from the said date is legal and justified? If so, to what relief is the workman entitled? ”

1. Having received the Order No. L-22012/240/2005–IR(CM-II) dated 03.08.2006 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 47 of 2006 was registered on 14.08.2006. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.

2. The workman through his union representative has filed written statement. He has alleged in his written statement that Shri Parmeshwar Tewari was appointed in at Damagoria Colliery under C.V. Area of M/s. Bharat Coking Coal Limited in October, 1978 as U.G. Loader in Category-I under clause 9.4.2 of National Coal Wage Agreement-I. He was regularized as Excavation Helper in Excv. Grade-E. He was subsequently regularized as Excavation Helper in Excv. Grade-D w.e.f. January, 1999. Prior to his regularization as Tripman, Shri Parmeshwar Tewari worked as Tool Issue Clerk for several years but he was neither regularized nor paid any differences of wages for the same. After 21 years he was regularized as Tripman in Clerical Grade-III w.e.f. 29.04.1999 vide Office Order dated 29.04.1999 on the certain terms and conditions. The Personnel Manager of C.V. Area of M/s. Bharat Coking Coal Limited by Order No. 1620A dated 07.07.1999 duly certified that all the terms and conditions have been fulfilled. He continued to work as Tripman on regular basis with effects from 16.11.1999 but he was not paid even a single paisa for his working in higher Grade as differences. Still he was getting his old pay as Excavation Helper in Excv. Grade-D. The workman without notice was suddenly reverted to the post of Excavation Helper vide the Project Officer's Letter dated 17.04.2002 and subsequently stopped from working as Tripman also with effect from 19.06.2002. The ground of reversion was that the concerned workman does not possess the educational qualification, whereas the workman's colleagues who possess the same certificate from same institution have already been regularized. On representation of workman the matter was enquired by one Dy. C.P.M, Mr. Sinha and it was found that three persons were having the same or similar certificates from the same organization have been regularized earlier to the regularization of the workman.

The reversion of workman is illegal. The workman was asked to report for duty as Excavation Helper by the Agent vide his letter dated 12.05.2003. The workman denied. He was chargesheeted on 05.12.2002. The workman was allowed to resume his duty as Excavation Helper on his old post and not as Tripman in Clerical Grade which is highly unfair and unjustified. The order of reversal is wrong and illegal and the workman Parmeshwar Tewari is entitled for regularization and treated to be as Tripman with effect from 16.11.1999. Union has prayed that Shri Parmeshwar Tewari be treated as Tripman in Clerical Grade-III with effect from 16.11.1999 with all consequential benefits with regard to protection of pay, allowances, L.T.C, Promotion etc. Union has prayed that the Tribunal may kindly direct the management of Damagoria Colliery under C.V. Area of M/s. Bharat Coking Coal Limited to treat Shri Parmeshwar Tewari as Tripman and all consequential benefits be allowed to him with effect from 16.11.1999.

3. The Agent of Damagoria Colliery under C.V. Area of M/s. Bharat Coking Coal Limited has alleged in his written statement that the disputes regarding regularization of Shri Parmeshwar Tewari as regular Tripman with effect from 16.11.1999 is entirely misconceived one. The concerned workman was regularized as Excavation Helper in Excv. Grade-E from the post of Expl. Carrier in the year 1990. The concerned workman was regularized as Tripman/Dumpman by the competent Authority vide Office Order No. BCCL/O&M/Regl/Dumpman-Tripman/1363 dated

28/29.04.1999. The Office Order was passed subject to fulfillment of certain norms and one of the conditions of the same was that the minimum qualification of the incumbent should be Matriculation examination. Shri Parmeshwar Tewari was posted at Damagoria Colliery under C. V. Area of M/s. Bharat Coking Coal Limited *vide* above Regularization Order and was posted at Barora Area, where he did not join. Thereafter he was posted at NLOCP and he again joined at Damagoria O.C.P. of M/s. Bharat Coking Coal Limited on and from 11.12.1999 to perform the work of Tripman/Dumpman provisionally. Shri Parmeshwar Tewari was given initial basic pay of Grade- III and the same was duly communicated to him vide Office Order No.DC/Sr. PO/00/2000/342 dated 28/29.06.2000 issued by the Project Officer, Damagoria Colliery. The concerned workman was directed to submit Matriculation Certificate as per condition of the Office Order dated 28/29.04.1999. But instead of producing the same he submitted 'Prathama' qualification certificate issued by 'Hindi Sahitya Sammelan, Allahabad'. But as the said certificate is not equivalent to Matriculation Certificate, the claim for regularization of the concerned workman was not considered and in view of Office Order No. BCCL/O&M/888/2002 dated 20/22.03.2002 the competent authority has approved for cancellation of the Office Order no. 1363 dated 28/29.04.1999. Since the workman has not fulfilled the terms and conditions laid therein and Shri Parmeshwar Tewari was reverted back to his original job of Excavation Helper in view of his failure to produce the said Matriculation Certificate. As per Cadre Scheme, regularization can only be effected if a person has Matriculation Certificate and in the instant case the action of the management is totally justified in not considering the concerned workman as regular Tripman/Dumpman. The action of management for cancellation of regularization order from the post of Tripman/Dumpman is fully justified. The concerned workman is not entitled to any relief.

4. The workman has filed the following documents :

(i) Photocopy of the G.M. (MIS) B.C.C.L's Letter/O.O No. 1863 dated 28/29.04.1999, (ii) Photocopy of the P.O's Letter No. 1625 dated 13/14.11.1999, (iii) Photocopy of the Sr. P.O./CV Area's Letter No. 2528 dated 11.11.1999, (iv) Photocopy of the P.M./CV Area's letter No. 1620 A dated 6/7.07.1999, (v) Photocopy of the P.O's Letter dated 13/17.04.2002, (vi) Photocopy of the P.M's O/O No. 1922 dated 21/23.08.1999, (vii) Photocopy of the Dy. C.P.M's Letter dated 01.11.2002 (viii) Photocopy of the P.O's Letter No. 2961 dated 10/12.05.2003 (ix) Photocopy of the Certificate dated 22.12.1989, (x) Photocopy of the Notification dated 26.07.2001.

The workman Parmeshwar Tewari has filed affidavit in his oral evidence. He has been cross-examined by the learned advocate of M/s. Bharat Coking Coal Limited.

The Agent of Damagoria Colliery under C. V. Area of M/s. Bharat Coking Coal Limited has not filed any documentary evidence or oral evidence.

5. I have heard the arguments of Shri S. K. Pandey, the learned union representative appeared on behalf of Shri Parmeshwar Tewari, the workman and Shri P. K. Das, learned advocate appeared on behalf of Damagoria Colliery under C.V. Area of M/s. Bharat Coking Coal Limited.

6. Shri S. K. Pandey, learned union representative for the workman has argued that the reversion of Shri Parmeshwar Tewari is illegal and he possessed the necessary qualification of Matriculation and without considering his certificate reversion to lower post is illegal and he should be regularized as Tripman with all consequential benefits. Shri P.K. Das, learned advocate of Damagoria Colliery under C.V. Area of M/s. Bharat Coking Coal Limited has argued that the action of management of Damagoria colliery is fully justified.

7. It is admitted fact that Shri Parmeshwar Tewari was regularized as Excavation Helper in Excv. Grade- E. It is not disputed that sometimes he had been working as Tripman. The basis of claim of workman is that he has been regularized on the post of Tripman and after regularization as Tripman the workman can not be de-regularized or reverted to lower post. He possesses necessary qualification. The Agent of Damagoria Colliery under C.V. Area of M/s. Bharat Coking Coal Limited has denied regularization of workman on the basis that he does not possess necessary qualification which is pre-requisite for regularization. The workman has filed letter No. 1863 dated 28/29.04.1999. As per this letter the concerned workman Parmeshwar Tewari has been provisionally regularized as Tripman in Clerical Grade- III. The minimum qualification of the incumbent should be Matriculation examination. By letter No. 1922 dated 21.08.1999 the workman concerned has been approved in clerical Grade- III subject to fulfillment of conditions mentioned earlier. By letter No. 1625 dated 13.11.1999 Shri Parmeshwar Tewari was authorized to work as Tripman. By letter No. 2528 dated 11.11.1999 the workman was provisionally authorized to work on the post of Tripman with condition that this interim order will be enforced till he has not confirmed by the competent authority. By letter dated 13/17.04.2002 Shri Parmeshwar Tewari was reverted from the post of Tripman to Excavation Helper. The Union has relied on letter No. 1620A dated 06/07.07.1999. But this letter does not create any right in favour of workman because the workman was temporarily regularized on the post of Tripman on certain specific terms and conditions. The minimum qualification required for the post of Tripman was Matriculation. This condition was mentioned in letter No. 1363 dated 28.04.1999 and subsequently in letter No. 1922 dated 21.08.1999, letter No.1625 dated 13.11.1999, and letter No. 2528 dated 11.11.1999.

8. The Hon'ble Apex Court in State of Karnataka and Others V/s. M. L. Kesari and Others reported in 2010 (127) FLR page 12 has held that :

“where the appointments are not made or continued against sanctioned posts or where the persons appointed does not possess the prescribed minimum qualifications, the appointments will be considered to be illegal”

In the light of the observation of the Hon'ble Apex Court, the minimum qualification of Matriculation is pre-requisite for regularization of workman as Tripman. The workman has filed certificate of “*Kendradhishak*”, “*Hindi Sahitya Sammelan, Allahabad*”. He has certified that Shri Parmeshwar Tewari has passed the “Prathama” (Matriculation) in 2nd Division in the year 1988.

There is no document to establish that degree of “Prathama” is equivalent to Matriculation. The union representative has filed Notification issued by Government of India dated 26.07.2001. The Joint Secretary has notified that high level committee has decided to recognize the “Prathama” examination being conducted by “*Hindi Sahitya Sammelan, Allahabad*” for the purpose of employment under the Central Government for the post for which the desired qualification is a pass in matriculation. The recognition is provisional for a period of three years after which the Committee will review the recognition granted. The Notification dated 26.07.2001 indicates that recognition is provisional only for three years and it will be effective from 26.07.2001. It does not have retrospective effect, whereas the certificate of “*Hindi Sahitya Sammelan, Allahabad*” has been issued on 22.12.1989 much before the Notification of Government of India dated 26.07.2001. The Notification of Government of India does not create any right in favour of workman, since the workman does not possess necessary qualification of Matriculation which is required minimum qualification for the post of Tripman. The workman is not entitled for regularization as Tripman.

9. In view of the above discussion the demand of Koyala Mazdoor Congress from the management of Damagoria Colliery under C.V. Area of M/s. Bharat Coking Coal Limited that Shri Parmeshwar Tewari may be treated as regular Tripman with effect from 16.11.1999 with all consequential benefits is not legal and unjustified. The workman is not entitled to any relief.

ORDER

Let an “Award” be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1695.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 64/2005) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6.7.2017 को प्राप्त हुआ था।

[सं. एल-22012/308/2004-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 13th July, 2017

S.O. 1695.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 64/2005) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure, in the industrial dispute between the management of M/s. ECL, and their workmen, received by the Central Government on 6.7.2017.

[No. L-22012/308/2004 - IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL

PRESENT : Shri Pramod Kumar Mishra, Presiding Officer

REFERENCE NO. 64 OF 2005

PARTIES : The management of Khas Kajora Colliery of M/s. E.C.L.

V/s.

Shri Shib Kumar Ankuria

REPRESENTATIVES:

For the management : Shri P. K. Das, learned advocate

For the union (Workman) : Shri Rakesh Kumar, Learned Union Representative

INDUSTRY : COAL STATE : WEST BENGAL

Dated : 07.06.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section (1) and Sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/308/2004-IR(CM-II) dated 20.07.2005 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Khas Kajora Colliery under Kajora Area of M/s. Eastern Coalfields Limited Coalfields Limited in dismissing Mr. Shib Kumar Ankuria, U.G Loader, U. M. No. 555070 from services w.e.f. 17.07.1995 is legal and justified? If not, to what relief the workman is entitled? ”

1. Having received the Order NO. L-22012/308/2004-IR(CM-II) dated 20.07.2005 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a Reference Case No. 64 of 2005 was registered on 17.08.2005. Accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned, directing them to appear in the court, on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned. Both the parties appeared in the Tribunal, through their representative.
2. The workman Shri Shiv Kumar Akuria through his union representative has filed written statement. He has alleged in his written statement that he was a permanent employee of the company posted at Khas Kajora Colliery under Kajora Area of M/s. Eastern Coalfields Limited. He was suffering from Jaundice. He was under the treatment of Khas Kajora Colliery hospital from 03.12.1994 to 08.12.1994 but he was not cured. Thereafter he started treatment at Sub-divisional Hospital, Asansol from 10.12.1994 to 23.03.1995. He came to colliery on 24.03.1995 and requested for joining duty. He also submitted all treatment papers in support of his claim but he was not allowed to join duty. The management issued Chargesheet bearing No. KMC/P&IR/C-6/19/468 dated 09.05.1995 for his absence from 01.12.1994. Shri Shiv Kumar Akuria attended his duty on 30.11.1994, he fell ill. Since his residence was away from colliery so he reported the colliery doctor after two days. The Manager of the colliery allowed him to join duty with a strong warning letter vide Letter No. KMC/P&IR/C-6/19/95 dated 18.11.1995. The management awarded harsh and extreme punishment of dismissal vide ref No. KA/PM/C-6/10/P&IR/1202/3715 dated 17.07.1995. The punishment of dismissal is very harsh and extreme which should not be awarded for absence due to sickness. He is not a habitual absentee. He is not having any source of income. The workman has prayed that management of Khas Kajora Colliery under Kajora Area of M/s. Eastern Coalfields Limited should be directed to set-a-side the Dismissal Order and direction to be issued to permit him to join his duty with full back wages and all consequential benefits.
3. The Agent of Khas Kajora Colliery under Kajora Area of M/s. Eastern Coalfields Limited has filed written statement and alleged that Shri Shib Kumar Ankuria, Underground Loader was absenting himself from duty with effect from 01.12.1994 to 10.05.1995 without any permission or intimation to the management. As such he was chargesheeted vide ref No. KKC/P&IR/C-6/19/468 dated 09.05.1995 for his misconduct under the Model Standing Order. A domestic enquiry was held in presence of ex-workman and he was given all reasonable opportunity to defend his case in accordance with the principles of natural justice. After conclusion of enquiry proceeding, the Enquiry Officer submitted the Enquiry Report. The Enquiry Officer held the workman guilty of the charges framed against him. The Disciplinary Authority being satisfied with the Chargesheet, Enquiry Proceeding and Enquiry Report awarded an order of dismissal of the ex-workman from service vide Letter No. KA/PM/C-6/10/1202/3715 dated 17.07.1995. The punishment awarded is not at all harsh. The workman is a habitual absentee. In the year 1993 his attendance was 26 days, in the year 1994 his attendance was 73 days. The delinquent workman was issued the following warning letters prior to his dismissal (i) KKC/P&IR/C-6/10(2)/93 dated 22.03.1993, (ii) KKC/P&IR/C-6/10(2)/651 dated 02/03.07.1993 with last and final warning, (iii) Strong Warning: KKC/P&IR/C-6/10(2)/588 dated 08/11.06.1994, (iv) Strong Warning KKC/P&IR/C-6/10(2)/1209 dated 19/23.11.1994. In view of above facts the punishment of dismissal is justified. The workman is not entitled to any relief.

4. The workman has filed the following documentary evidences:

(i) Xerox copy of the identity card of Shri Shib Kumar Ankuria, Underground Loader of Khas Kajora Colliery, (ii) Xerox copy of the Chargesheet dated 09.05.1995, (iii) Xerox copy of the reply of the Chargesheet, (iv) Xerox copy of the Sick Certificate issued by M.O., Khas Kajora Colliery Dispensary, (v) Xerox copy of the Sick Certificate issued by the M.S., Sub-Divisional Hospital, Asansol, (vi) Xerox copy of the Enquiry Proceedings, Enquiry Report and Findings of the Enquiry Officer, (vii) Xerox copy of the Dismissal letter signed by G.M., Kajora Area dated 17.07.1995 (viii) Xerox copy of the letter of the Manager, Khas Kajora Colliery allowing Shri Shib Kumar Ankuria with the warning on 18.11.1995, (ix) Xerox copy of the Order of Dismissal signed by the Manager, Khas Kajora Colliery dated 20.02.1996, (x) Xerox copy of the Note Sheet dated 07.02.1997, (xi) Xerox copy of the Mercy Petition of Shri Shib Kumar Ankuria.

The management of Khas Kajora Colliery has not filed any documentary evidence. Neither party to the reference has examined any witness.

5. I have heard the arguments of Shri Rakesh Kumar, learned union representative appeared on behalf of Shri Shib Kumar Ankuria, the workman and Shri P. K. Das, learned advocate appeared on behalf of Khas Kajora colliery under Kajora Area of M/s. Eastern Coalfields Limited, the management.

6. Shri Rakesh Kumar has argued that due to absence of workman, Manager of colliery allowed to join the concerned workman after issuing warning letter. Even then the Area General Manager passed the dismissal order which is very harsh and should be set-a-side. In reply Shri P. K. Das, learned advocate has argued that Dismissal Order has been passed by the Competent Authority. If sub-ordinate authority permitted to join the concerned workman, but afterwards considering all the facts, the Disciplinary Authority/Competent Authority passed the dismissal order then permission of joining by Colliery Manager will have no consequence. The dismissal order is bona fide and genuine.

7. It is admitted fact that Shri Shib Kumar Ankuria was a permanent employee of the company posted at Khas Kajora Colliery under Kajora Area of M/s. Eastern Coalfields Limited. It is also admitted fact that he was absent from duty for which domestic enquiry was conducted and after enquiry the delinquent workman Shri Shib Kumar Ankuria was dismissed. At the very outset it is relevant to mention that the workman has not challenged the validity and fairness of the departmental enquiry in his written statement rather on 04.04.2007 he has accepted that he is not challenging the departmental enquiry. The Tribunal after hearing both the parties passed the order that since the fairness and validity of the departmental enquiry was not challenged. Therefore, enquiry proceeding is held to be fair and valid. Now the only question remains to be considered whether in the present facts and circumstances the punishment of dismissal is justified?

8. The Agent, Khas Kajora colliery of M/s. Eastern Coalfields Limited has alleged in Para-7 of his written statement that the concerned workman was previously absenting on several occasions. In the year 1993 his presence was only 26 days and in the year 1994 he was present only on 73 days. In Para-8 of the written statement he has been alleged that delinquent workman was issued several warning letters before absence from 01.12.1994 to 10.05.1995. He has been issued warning letters vide letter (i) KKC/P&IR/C-6/10(2)/93 dated 22.03.1993, (ii) KKC/P&IR/C-6/10(2)/651 dated 02/03.07.1993 with last and final warning, (iii) Strong Warning: KKC/P&IR/C-6/10(2)/588 dated 08/11.06.1994, (iv) Strong Warning KKC/P&IR/C-6/10(2)/1209 dated 19/23.11.1994. The workman has not denied these allegations. The workman even has not filed any medical papers regarding his treatment. Therefore, in the present facts and circumstances punishment of dismissal does not appear to be unjust or illegal.

9. So far as the argument of Shri Rakesh Kumar, learned union representative for the workman is concerned it has no substance. The competent authority has passed the order of dismissal, if sub-ordinate authority was sympathetic and permitted to join the duty of concerned workman it will create no right in favour of delinquent workman. The Disciplinary Authority was the competent authority to pass the Dismissal Order. The Manager of the colliery was only the recommending authority, he/she was not the disciplinary authority. The Disciplinary/Competent Authority after considering the past performance of the concerned workman and the Enquiry Report passed the Dismissal Order.

10. In view of the above discussion the action of management of KhasKajora Colliery under Kajora Area of M/s. Eastern Coalfields Limited in dismissing Shri Shib Kumar Ankuria, Underground Loader, U.M. No. 555070 from service with effect from 17.07.1995 is legal and justified. The workman is not entitled to any relief.

ORDER

Let an "Award" be and the same is passed as per above discussion. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1696.— औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ईसीएल के प्रबंधन के संबंधित नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, आसनसोल के पंचाट (संदर्भ संख्या 105/1999) को प्रकाशित करती है, जो केन्द्रीय सरकार को 6.7.2017 को प्राप्त हुआ था।

[सं. एल-22012/452/1998-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 13th July, 2017

S.O. 1696.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 105/1999) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, ASANSOL as shown in the Annexure, in the industrial dispute between the management of M/s. ECL, and their workmen, received by the Central Government on 6.7.2017

[No. L-22012/452/1998 - IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, ASANSOL****PRESENT :** Sri Pramod Kumar Mishra, Presiding Officer**REFERENCE NO. 105 OF 1999****PARTIES :** The management of Parascole Colliery of Kajora Area of M/s. ECL**V/s.**

Smt. Sakina Turi

REPRESENTATIVES:

For the management : Sri P. K. Das, Learned Advocate

For the union (Workman) : Sri Rakesh Kumar, Union President

INDUSTRY : COAL STATE : WEST BENGAL

Dated : 16.05.2017

AWARD

In exercise of powers conferred by clause (d) of Sub-section(1) and Sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), Govt. of India through the Ministry of Labour vide its letter No. L-22012/452/98 –IR(CM-II) dated 30/07/1999 has been pleased to refer the following dispute for adjudication by this Tribunal.

SCHEDULE

“Whether the action of the management of Parascole Colliery of Kajora Area of ECL in not providing employment to the dependent of Smt. Sakina Turi as per Clause 9.4.3 of NCWA is legal and justified? If not, to what relief the workman is entitled?”

1. Having received the Order NO. L-22012/452/98 –IR(CM-II) dated 30/07/1999 of the above said reference from the Govt. of India, Ministry of Labour, New Delhi for adjudication of the dispute, a reference case No. 105 of 1999 was registered on 18.08.1999/20.09.2001 and accordingly an order to that effect was passed to issue notices through the registered post to the parties concerned directing them to appear in the court on the date fixed and to file their written statements along with the relevant documents and a list of witnesses in support of their claims. In pursuance of the said order notices by the registered post were sent to the parties concerned.

2. Case called out. Sri P. K. Das, Learned Advocate for the management is present. None appears on behalf of the Union/Workman.
3. On perusal of the case record it is found that the case was fixed for evidence of workman on 03.10.2016 but neither the union nor the workman took any necessary step to file evidence. The case is also very old and several opportunities were granted to the union to substantiate his case filing evidence of workman. Even registered notice was issued to the union on 12.01.2016. But the union did not respond. It seems that the workman/union has now no interest left to proceed with the case further. The case is also 18 years old. As such I have no option left but to close the case.
4. As such the case is closed and accordingly a 'No Dispute Award' is hereby passed.

ORDER

Let an "Award" be and same is passed as no dispute existing. Send the copies of the order to the Govt. of India, Ministry of Labour, New Delhi, for information and needful. The reference is accordingly disposed of.

PRAMOD KUMAR MISHRA, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1697.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एमसीएल के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 19/2009) को प्रकाशित करती है, जो केन्द्रीय सरकार को 27.6.2017 को प्राप्त हुआ था।

[सं. एल-22012/123/2008—आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 13th July, 2017

S.O. 1697.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 19/2009) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Bhubaneswar as shown in the Annexure, in the industrial dispute between the management of M/s. MCL, and their workmen, received by the Central Government on 27.6.2017

[No. L-22012/123/2008 - IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR

Present : Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 19/2009

Date of Passing Award – 09th June, 2017

Between:

The Project Officer,
Bharatpur OCP of MCL, Po. Balanda,
Angul.

...1st Party-Management

(And)

Shri Darshani Kumar Sahoo,
Dumper Operator, Bharatpur OCP of MCL,
Po. Balanda, Angul.

...2nd Party-Workman

Appearances:

Shri M. K. Singh,
Sr. Officer (P & A)

... For the 1st Party-
Management

Shri D. K. Sahoo.

... For himself the 2nd Party-
Workman

AWARD

The award is directed against a reference with following schedule:-

“Whether the demand of the Union for promoting Shri Darshani Kumar Sahu to the post of Sr. Dumper Operator along with service benefits w.e.f. 1995 as per Cadre scheme is legal and justified? To what relief is the workman concerned entitled?”

made by the Government of India, Ministry of Labour in exercise of the powers conferred by clause (d) of Sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (herein after referred to as the “Act”) vide letter No. L-22012/123/2008 – IR(CM-II), dated 23.03.2009.

2. The case of the 2nd party-Union is that the workman Shri Darshani Kumar Sahu was appointed as a Dumper Operator (Trainee) in “V” Category on 20.4.1988 and he was posted in Lajakura Open Cast Project of Ib valley area. After completion of his probation i.e. training period on 20.10.1988, he was given full-fledged appointment of Dumper Operator in the said category. He was promoted to the next higher cadre of Dumper Operator, Grade-III in Group-D with effect from 26.10.1989. While continuing in the said cadre he was transferred from Lajakura Open cast Project to Bharatpur Colliery on 04.09.1990. He was supposed to be promoted to the next cadre of Dumper Operator in Group-C after completion of two years as Dumper Operator, Group-D. But, he was promoted to the post of Group-C Dumper Operator on 22.1.1997 after completing seven years in Dumper Operator, Group-D cadre and then he was promoted to the cadre of Dumper Operator, Grade-B on 01.01.2001 and then the cadre of Senior Dumper Operator, Grade-A on 01.01.2005. It is the claim of the 2nd party-Union that his counter-parts, who were appointed along with him, were given promotion from Group-D cadre to Grade-C cadre after completion of two years service in Grade-D cadre, whereas the Management took seven years to give promotion to the disputant workman from Grade-D to Group-C category, though the circular No. PD/EXCV. Staff/72/1, dated 02.01.1978 of the Management requires such promotion be given after completion of two years. The counter parts of the disputant workman and his juniors including one Shri U. Pothal were given promotion in time as per the circular of the Management whereas, there was an abnormal delay in giving promotion to the disputant workman. As a result of which the counter-parts of the disputant workman had their promotion to Dumper Operator in Grade-A category much prior to the disputant workman. There was no default on the part of the disputant workman for which he cannot be denied timely promotion. Hence, prayer has been made to extend promotion to the disputant workman from one cadre to another cadre as per the Scheme enunciated in the circular dated 2.1.1978 along with all consequential financial benefits with retrospective effect.

3. Being noticed the Management appeared and filed its written statement taking a stand that promotion to the higher cadre is not a matter of right and it is always subject to eligibility, suitability and efficiency/competency as well as availability of posts. Promotion of Dumper Operators to higher cadre is always subject to qualifying in a trade test conducted by the Management and clearance by the D.P.C. as per the guidelines/circular of the Management. It is their case that the disputant workman failed to qualify in the trade test held in the year 1993 for which the D.P.C. did not clear his name for his promotion from Group-D operator to Group-B Dumper Operator in the year 1993. D.P.C. cleared his name after he became successful in the test in the year 1997, when the next D.P.C. was held after the D.P.C. held in the year 1993. The Management was no way responsible for such delayed promotion of the disputant workman. According to the Management the counter-parts of the disputant workman and some of his juniors were given promotion as they qualified in the trade test and their names were cleared by the D.P.C. Promotion to the next cadre is being given as per the seniority-cum-suitability of the candidates. The claim of the disputant workman is not genuine and he cannot be given promotion in different cadres with effect from the date on which his counter-parts or juniors were given promotion as he failed to qualify in the D.P.C. held in the year 1993. Thus, the Management has submitted for rejection of the claim of the disputant workman.

4. On the aforesaid pleadings of the parties the following issues were settled.

ISSUES

1. Whether the demand of the Union for promoting Shri Darsani Kumar Sahu to the post of Dumper Operator along with service benefits with effect from 1995 as per Cadre Scheme is legal and justified?
2. To what relief is the workman concerned entitled?

5. The disputant workman has examined himself as W.W.-1 and relied upon the documents like the circular dated 02.01.1978 of the Management regarding the procedure of placing of Dumper Operator Grade-II in the scale of

Grade-I, copy of the revised final seniority list of Senior Dumper Operator Category-A, National Coal Wage Agreement – VII Implementation Instruction No. 21, dated 31.8.2007 and copy of the cadre scheme of promotional channel for excavation personnel Dumper Operator of the Management, which are marked as Ext.-1 to 3/1. It is pertinent to mention here that the Management took part in the proceeding till closure of evidence on the part of the 2nd party-Union. But, it failed to appear thereafter and adduced any evidence in support of its stand.

FINDINGS

6. The disputant workman has testified in support of his pleadings advanced in his statement of claim. In his oral testimony he has specifically stated that his counter-parts and his juniors including one U. Pothal were given promotion earlier in different cadres of Dumper Operators as a result of which they reached to the cadre Group-A Dumper Operator much prior to him. According to him one Shri U. Pothal was junior to him and he was given promotion as per the Scheme to the post of Dumper Operator in Grade-C, Grade-B and Grade-A for which he got the promotion in Grade-A cadre much earlier to him. His counter-part and his junior Shri Pothal were promoted to the Grade-C cadre in the year 1989, to Grade-B cadre in the year 1991 and to the Grade-A cadre in the year 1997, whereas he was promoted to Grade-C cadre in the year 1997 and to the B-Cadre in the year 2001 and to the Cadre of A in the year 2005. There was a delay of nine years in getting promotion to Grade-A Dumper Operator for which he sustained financial loss. It is his specific evidence that in his case promotion to the next cadre was not given as per the guidelines and circular of the Management. The delay was caused due to blatant violation of the guidelines and circulars of the Management. There is no serious dispute from side of the Management that Circular dated 02.01.1978 is usually followed while considering promotion of the Dumper Operators from one cadre to next higher cadre. On a close reading of the documents filed by the disputant workman and the contentions advanced by the parties, it is seen that the Management has not seriously disputed any of the documents relied upon by the disputant workman. On a close reading of those documents it is found that Dumper Operators in D-Category are eligible for promotion to the Dumper Operator C-Category after having one year experience as Dumper Operator in Excavation Category-D, Operator in Category-C is eligible for promotion to Operator Category-B after having three years experience in Category-C, Dumper Operator Category-B is eligible for promotion to Operator, Category-A after having experience of four years in Category-B. The promotion from Category-D to Category-C is also subject to clearance in trade test and next promotions are subject to clearance by D.P.C. No serious dispute is also raised by the Management to the gradation list (Ext.- 2) filed by the disputant workman. As per the said list Dumper Operators who joined in the service in the year in which the disputant workman joined and Shri U. Pothal who joined subsequent to the disputant workman are found to have been given promotion in different cadres much prior to that of the disputant workman. There is also no serious dispute to the claim of the disputant workman that they were given promotion in different cadres after completion of period of experience as required for next promotion whereas, the disputant workman took seven years to get his promotion from Group-D cadre to Group-C cadre. It is elicited from the cross examination of the disputant workman that he appeared the D.P.C. in the year 1993 and in the year 1997 for getting his promotion from Group-D to Group-C category of Dumper Operator.

7. Though, the Management has taken a specific stand that he was not qualified in the D.P.C. held in the year 1993, not a single scrap of paper has been filed or any oral evidence is adduced to establish that the disputant workman failed to qualify in the trade test or D.P.C. did not clear his name for his next promotion. On a close scrutiny of the cross examination of the disputant workman it is seen that the Management has failed to demolish the testimony of the disputant workman in regard to discrimination of the Management while ignoring his claim for promotion. When there is nothing on the record produced on behalf of the Management to assign any reason for which the disputant workman was denied promotion as per the guidelines and circulars and there is no serious dispute that the counter-parts and the junior to the disputant-workman were given promotion earlier, there is no alternative than to hold that the disputant workman was discriminated and his claim for promotion as per his counter-parts and juniors cannot be ignored without any valid reason. When the Management has failed to produce any oral or documentary evidence to substantiate its claim that the promotion of the disputant workman was taken into consideration simultaneously along with his counter-parts and his juniors and he was not found suitable and there is valid reasons to withheld his promotion, it is to be presumed that the disputant workman was also eligible for promotion like his counter-parts and juniors from Group-D Dumper Operator to Group-C Dumper Operator. Had he been promoted to the Group-C cadre in the year 1993, he could have reached to the cadre of Group-A at least by the year 1999 as per the Scheme. The Management having failed to establish that the disputant failed to qualify in the trade test he was not successful in the D.P.C. held in the year 1993, there is no reason to deny promotion to the disputant workman in the year 1993. Further, it is noticed that the disputant workman Shri Sahu was given promotion in other cadres within the time frame, whereas there was delay in giving him promotion from D-Category Dumper Operator to C-Category Operator. Hence, it is also difficult to accept that he could not qualify in the trade test on in the D.P.C. held in the year 1993.

8. For the reasons mentioned above the disputant workman is entitled to get his promotion from Dumper Operator in Group-D post to Dumper Operator in Group-C cadre at least in the year 1993. Accordingly his promotion in the cadre is to be advanced and the same shall be effective on the dates in which his junior Shri Pothal is given promotion in different cadre of the Dumper Operator. He is also entitled to all consequential financial benefits in the higher cadre from the date of his promotion.

9. Accordingly the reference is answered in favour of the disputant workman.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1698.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफसीआई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, गुवाहाटी के पंचाट (संदर्भ संख्या 5/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5.7.2017 को प्राप्त हुआ था।

[सं. एल-22011/17/2015-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 13th July, 2017

S.O. 1698.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 5/2015) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Guwahati as shown in the Annexure, in the industrial dispute between the management of M/s. FCI, and their workmen, received by the Central Government on 5.7.2017

[No. L-22011/17/2015 - IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE

IN THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, GUWAHATI, ASSAM

Present : Shri Mrinmoy Kumar Bhattacharjee, M.A., LL.B. Presiding Officer,
CGIT-cum-Labour Court, Guwahati.

Ref. Case No. 05 of 2015

In the matter of an Industrial Dispute between :—

The Management of F.C.I, Zonal Office, Guwahati and 02 ors.

Vrs.

F.C.I Handling Workers Union, New Delhi.

APPEARANCES :

For the Workmen. : Mr. A.Kalita, learned Advocate.

For the Management. : Mr. S. Chakrabarty, Learned Advocate.

Date of Award : 18.05.2017

AWARD

1. The present reference arose out of an Industrial Dispute between the workmen represented by F.C.I. Handling Workers Union, New Delhi and the management of FCI. According to the Central Government, an Industrial Dispute exists between the employer in relation to the Management of F.C.I, and their workmen in respect of the matters which has been specified in the Schedule as under:

SCHEDULE

“Whether the action of the management of Executive Director (NEF), Food Corporation of India, Zonal Office, G.L.Publication Building, 4th Floor, G.S. Road, Ulubari, Guwahati, General Manager(Region), Food Corporation of India ,Regional Office, Assam, G.S.Road,Ulubari, Guwahati and the Area Manager, Food Corporation of India, District Office, Nagaon, A.T.Road, Haibargaon, Assam in employing contract labourers at the railway siding Haibourgaon, Assam w.e.f 01.01.2015 in place of direct labourers violating the provisions of Section 9-A of ID Act, 1947 is legal and justified? If not, what relief the workmen are entitled to and from which date?”

2. The claim of the workmen filed through the General Secretary of FCI Handling-Workers' Union, 8651, Arakashan Road, Paharganj, New Delhi-110055., was that the Food handling workers deployed under Departmental Labour System at FCI, FSD, Senchowa and Itachali (Habibargaon) under FCI District Office, Nagaon were working for last 20 years at Railway Siding Haibargaon. Subsequently the Union came to know that the Management of FCI appointed Contractor and started operations through contractor w.e.f 01.01.2015 in place of Departmental System of workers, who have been working for nearly 20 years and such appointment of Contractor adversely affected the service of the existing departmental workers. After failure of the conciliation before the appropriate authority the matter was sent to the Ministry of Labour and Employment, Govt. of India and the Government referred the matter to this Tribunal with the aforesaid "reference". The Union prayed before the Tribunal that the railhead operation of Habibargaon be continued to be operated by the departmental workers of nearby FCI depots of Senchowa and Itachali as was being performed since last 20 years and also prayed to pass order to fill up the vacancies caused.

3. On receipt of the reference, notices were issued to the parties. Union submitted the claim application and the management submitted Written Statement.

4. The management's plea was that only 96 handling labourers were working in FSD Senchowa, FSD Itachali and ASWC Kutikatia and the same set of labourers also used to work at Haibargaon Railway siding on rotation basis. Since the age of those labourers crossed 50 years and the quantum of work being huge the authority found operational difficulty in getting the works executed and because of that the management arranged to engage contract labourers. In very brief this was the reason for which the contract labourers were engaged.

5. However, before the evidence could start in the reference, a petition has been filed by the General Secretary of the Food Corporation of India, Handling Workers Union Mr. Lakshman Singh who also submitted the Claim Application on behalf of the FCI Handling-Workers' Union. It has been stated in the petition that the management has since engaged the replaced workers at FCI Godown and workers were also working under the Management and in view of the aforesaid factual development the Union is not interested to proceed with the reference by adducing any evidence. They also prayed for dropping the case. Learned Lawyer appearing for the workers' Union also submitted that when the affected labourers have already been taken back into service by the Management the Union does not want to proceed with the matter. They prayed to drop the case.

6. In view of the aforesaid petition No. 139/17 submitted by the Workers' Union side by its General Secretary, Mr. Lakshman Singh, this Reference stands disposed of with an award of no relief.

Send the no relief Award to the Ministry as per procedure immediately.

Given under my hand and seal of this Court on this 18th day of May, 2017 at Guwahati.

MRINMOY KUMAR BHATTACHARJEE, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1699.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार एफसीआई के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, लखनऊ के पंचाट (संदर्भ संख्या 15/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 5.7.2017 को प्राप्त हुआ था।

[सं. एल-22011/57/2009-आईआर (सीएम-II)]

राजेन्द्र सिंह, अनुभाग अधिकारी

New Delhi, the 13th July, 2017

S.O. 1699.— In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 15/2010) of the Cent.Govt.Indus.Tribunal-cum-Labour Court, Lucknow as shown in the Annexure, in the industrial dispute between the management of M/s. FCI, and their workmen, received by the Central Government on 5.7.2017.

[No. L-22011/57/2009 - IR(CM-II)]

RAJENDER SINGH, Section Officer

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, LUCKNOW****Present :** Rakesh Kumar, Presiding Officer**I. D. No. 15/2010**

Ref. No. L-22011/57/2009 IR(CM-II) dated 28.07.2010

BETWEEN :

The Joint Secretary
FCI Worker Union,
8585, Arkshan Road, Paharganj
New Delhi-110055

AND

1. The General Manager,
Food Corporation of India,
TC/3V, Vibhuti Khand
Gomti Nagar, Lucknow

AWARD

1. By order No. L-22011/57/2009-IR(CM-II) dated 28.07.2010 the Central Government in the Ministry of Labour, New Delhi in exercise of powers conferred by clause (d) of sub section (1) and sub section (2A) of Section 10 of the Industrial Disputes Act, 1947 (14 of 1947) referred this industrial dispute between the Joint Secretary, FCI Worker Union, New Delhi and the General Manager, FCI, Vibhuti Khand, New Delhi for adjudication.
2. The reference under adjudication is:
“WHETHER THE NOTICE DATED 24.05.2007 OF THE MANAGEMENT OF FCI, LUCKNOW FOR CHANGE OF SERVICE CONDITION FOR INCLUSION OF WATCH & WARD DUTIES IN THE JOB DESCRIPTION OF ANCILLARY LABOURERS IS LEGAL AND JUSTIFIED?” TO WHAT RELIEF ARE THE CLAIMANTS ENTITLED FOR?”
3. As per claim statement W-4 the petitioner workman's Union has stated in brief that the claimant being Vice President of FCI Union is authorized to file the claim statement. Registration of the Union has also been mentioned in the claim statement. The petitioner has stated that the FCI issued a notice dated 24.05.2007 proposing change of service condition informing thereby that the departmental ancillary labourers working in UP Region have also to perform the duty of watch and ward prescribed for the post of watchman in FCI, the said notice was challenged before Dy. CLC on 01.06.2007 on the basis of Standing Orders issued by the department. The matter was referred to this Tribunal.
4. The petitioner Union has further asserted that Section 9A of the I.D. Act. has not been duly followed by the management neither the concerned Standing Orders are being followed. It has been asserted that the work of ancillary labourers have been well defined vide letter dated 18.02.1994 issued by the FCI, policy has been laid down as per settlement arrived at between the management of FCI Major Port and Representative Federation of Port and Doc Workers.
5. The petitioner Union has stressed that the work and duty of watch and ward was different from that of the ancillary labour. Circular dated 06.05.2002 issued by the FCI has also been referred in the claim statement and duties of ancillary labours have also been mentioned in para 13. It has further been stated that the FCI, Ahmedabad issued an order dated 29.08.2007 directing thereby that the ancillary workmen will work as Security Guard, which was subsequently withdrawn on 05.09.2007 on the stand taken by the FCI Workers Union. With the aforesaid pleadings request has been made by the petitioner to set aside notice dated 24.05.2007 for change of the service conditions proposed by the FCI. Several documents have been annexed alongwith the claim statement.
6. The management has filed written statement M-7, mentioning therein that in order to utilize gainfully the services of surplus ancillary labours it was proposed to deploy them on watch and ward duties since FCI does not have adequate Watch and Ward staff of its own, while Watch and Ward duties in offices, depots etc. of FCI had to spend lakhs of rupees per month. Therefore a notice of 21 days was issued by the UP Region on 24.05.2007 in accordance with Section 9A of the I.D. Act., the management has referred Tripartite Settlement dated 17.12.2008 with reference to the FCI departmental labourers of closed Chennai Port. The management has requested to reject the claim statement accordingly. Certain photo copies have been enclosed along with written statement.
7. With strong denial of the facts mentioned in the written statement while reiterating the pleas taken in the claim statement earlier, the petitioner union has filed rejoinder W-10 alongwith annexures.
8. The management filed certified copies of memorandum of settlement dated 17.12.2008 as M-16.
9. Learned AR for the workman endorsed on the order sheet of the Court file on 29.06.2012 that documents relevant for disposal have already been filed and there is no need to file additional evidence. Thereafter the then Hon'ble

Judge fixed date for management evidence. The management also did not adduce any oral evidence, although sufficient opportunity was provided.

10. Arguments of both the parties have been heard at length, and record has been scanned thoroughly.
11. It is an admitted fact to both the parties that the workman Sri M.C.Parida is an employee under the management of FCI and the FCI has issued a notice expressing its intention thereby to utilize his services as Watch & Ward employee. The workman has alleged that mandatory provision of the I.D. Act. has been ignored and the notice dated 24.05.2007 being legally not sustainable, is liable to be set aside. The opposite party has asserted that in order to utilize the services of surplus ancillary labours for watch and ward duties, in addition to the services already rendered by them UP Region office of FCI has issued 21 days notice on 24.05.2007, keeping in view the provision of Section 9A of the I.D. Act. Learned AR for the opposite party has asserted that there is no illegality in it.
12. Learned AR for the workman has referred a letter dated 06.05.2002 issued by Joint Manager, FCI, HQ, New Delhi and addressed to all Zonal Manager FCI, New Delhi, Calcutta, Chennai, Mumbai, Gawahati. Learned AR for the management has referred the Memorandum of Settlement dated 17.12.2008, executed at Chennai regarding change of service conditions proposed by the FCI under Section 9 A of the I.D. Act.
13. Both the parties have alleged that the aforesaid letters/MOS do not apply to the facts of the present case, taking into account the rival claims of the parties before this Tribunal.
14. Further the workman has submitted alongwith his affidavit W-10, another MOS dated 09.10.2007, executed at Ahmedabad. The opposite party has stressed that this MOS would not apply to the present case.
15. 9 A of the Industrial Dispute Act.1947 reads as under;
 “9A: No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change,-
 (a) without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or
 (b) within twenty-one days of giving such notice:
 Provided that no notice shall be required for effecting any such change-
 (a) where the change is effected in pursuance of any (settlement or award); or
 (b) where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules, Civil Services (Classification, Control and Appeal) Rules, Civil Services (Temporary Service) Rules, Revised Leave Rules, Civil Service Regulations, Civilians in Defence Services(Classification, Control and Appeal) Rules or the Indian Railway Establishment Code or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.”
16. Memorandum of Settlement, is a kind of document mentioning therein the terms and conditions to which the Workers Union and the Management agree. This document of amicable settlement, undoubtedly is conducive to the betterment of the Institution/Management, without ignoring the genuine welfare of its employees. Therefore, the applicability of the aforesaid MOS dated 09.10.2007 and 17.12.2008, has got its genuine legal limitation in the present context.
17. Duties performed by any other workman or ancillary labours, may not be equated with the duties assigned to any security person/watch and ward staff which is of specialized nature. It may seriously effect the security of the premises under the control of the management. The intention of the legislature while incorporating Section 9A in Chapter II A of the I.D. Act., was not to relax the security perception or to have scope for any compromise in this regard.
18. It may be quite pertinent to emphasise here that none of the parties, adduced any oral evidence before this Tribunal, neither opted for any opportunity to cross-examine the material witness. Arguments advanced by both the parties relate to the pleadings, affidavits and the documents submitted before this Court. The deployment of departmental ancillary labours for duties other than those pertaining to “Watch & Ward”, does have any patent or latent legal hinderance. However, in ordinary course without importing proper training, watch and ward duties should not be assigned to other workman or ancillary labours.
19. After having heard both the parties at length in the light of the record available before this Court, it is inferred that the notice dated 24.05.2007 issued by the management of the FCI for change of service conditions so as to assign the duties of “Watch & Ward”, can not be treated as feasible, justified or legal. The aforesaid notice dated 24.05.2007 is liable to be set aside. The workman/claimant is entitled to the consequential relief accordingly.
20. Award as above.

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1700.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एसोसिएटेड सीमेंट कंपनी लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 1 एवं 2/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.07.2017 को प्राप्त हुआ था।

[सं. एल-29011/3/2008-आईआर (एम),

सं. एल-29011/4/2008-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 13th July, 2017

S.O. 1700.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 1 & 2/2010) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s.. Associated Cement Co. Ltd. and other and their workman, which was received by the Central Government on 12.07.2017.

[No. L-29011/3/2008-IR (M),

No. L-29011/4/2008-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI**Friday, the 2nd June, 2017**Present :** K.P. PRASANNA KUMARI, Presiding Officer**Industrial Dispute No. 1 and 2 of 2010**

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of M/s. ACC Ltd. and various Contractors and their workman)

BETWEEN :**ID 1/2010**

The General Secretary : 1st Party/Petitioner Union
Coimbatore Cement Workers Union
No. 3/117, Palakkad Road, K.R. Ramasay
Nilayam, Gandhi Nagar, Madukkarai
Coimbatore-641105

AND

1. The General Manager : 2nd Party/1st Respondent
The Management of ACC Ltd.
Madukkarai Cement Works, Madukkarai Post
Coimbatore-641105
2. M/s. Alfa Engineering Construction : 2nd Party/2nd Respondent
M/s. A.C.C. Ltd.
Madukkarai-641105
3. M/s. Banu Engineering : 2nd Party/3rd Respondent
C/o A.C.C. Ltd.
Kurumpapalayam
Madukkarai Post
Coimbatore-641105

4. M/s. Safeline Electrical : 2nd Party/4th Respondent
C/o A.C.C. Ltd., Madukkarai Post
Coimbatore-641105
5. M/s. Bharathi Builders & Constructions : 2nd Party/5th Respondent
C/o A.C.C. Ltd.
Madukkarai-641105
6. M/s. Shiva Industrial and Engineering Works : 2nd Party/6th Respondent
C/o A.C.C. Ltd.
No. 17/3-21-A, Gandhi Nagar, Madukkarai Post
Coimbatore-641105
7. M/s. Latha Engineering Construction : 2nd Party/7th Respondent
C/o A.C.C. Ltd.
No. 16/187, Latha Nivas
Madukkarai Post
Coimbatore-641105
8. M/s. Fathima Contractor : 2nd Party/8th Respondent
C/o A.C.C. Ltd.
Madukkarai Post
Coimbatore-641105
9. M/s. Sakthia Electricals : 2nd Party/9th Respondent
C/o A.C.C. Ltd., Madukkarai Post
Coimbatore-641105
10. M/s. Chitra Contract : 2nd Party/10th Respondent
C/o A.C.C. Ltd., Madukkarai Post
Coimbatore-641105
11. M/s. Dutta Enterprises : 2nd Party/11th Respondent
MIG-II, 2636, M.P. Housing Road
Industrial Estate, Bhilai
Madhya Pradesh-460026

ID 2/2010**BETWEEN :**

- The General Secretary : 1st Party/Petitioner Union
Coimbatore Cement Workers Union
No. 3/117, Palakkad Road, K.R. Ramasay
Nilayam, Gandhi Nagar, Madukkarai
Coimbatore-641105

AND

1. The Senior Manager : 2nd Party/1st Respondent
Associated Cement Co. Ltd.,
Madukkarai Cement Work
Coimbatore-641105
2. M/s. Dutta Enterprises : 2nd Party/2nd Respondent
C/o A.C.C. Ltd., Bhilai
Madhya Pradesh-460026

Appearance :

- For the 1st Party/Petitioner : M/s. S. Arunachalam Associates, Advocates
For the 2nd Party/1st Respondent : M/s. T.S. Gopalan & Co., Advocates
For the 2nd Party/2 – 10th Respondent : M/s. Sai Raaj Associates, Advocates
For the 2nd Party/11th Respondent : M/s. Balan Haridas, Advocates

S.No.	Industrial Dispute No.	Reference Number & Date
1.	1/2010	L-29011/3/2008-IR(M) dated 23.12.2009
2.	2/2010	L-29011/4/2008-IR(M) dated 23.12.2009

COMMON AWARD

The Central Government, Ministry of Labour & Employment vide the above order of references referred the IDs mentioned above to this Tribunal for adjudication.

2. The schedule mentioned in the orders of reference in the above IDs are as under:

ID 1/2010

“Whether the contracts between the Management of ACC Ltd., Madukkarai Cement Works and their Contractors are sham and nominal and the contract workmen are entitled for reinstatement and for permanent absorption by M/s. ACC Ltd., Madukkarai Cement Works. What relief the concerned workmen are entitled to and from which date?”

ID 2/2010

“Whether the contract between the Management of ACC Ltd., Coimbatore and their Contractor M/s. Dutta Enterprises is sham and nominal and the contract workmen are entitled for reinstatement and for permanent absorption by M/s. ACC Ltd., Madukkarai Cement Works. What relief the concerned workmen are entitled to and from which date?”

3. The averments in the in the Claim Statement in ID 1/2010 are as below:

The petitioner is a recognized union. The 1st Respondent is engaged in the manufacture of cement in Madukkarai in Coimbatore District. There are more than 800 employees and Officers including members of the petitioner union, both permanent and contract labourers in the 1st Respondent establishment. The list of contract workers who are seeking relief in the reference is annexed to the Claim Statement. Hundreds of workers are employed through various Contractors by the 1st Respondent for its plant at Coimbatore and in the Mines in the area. Production in the factory is always in full swing throughout the year. The 1st Respondent has outsourced its work through various Contractors including Dutta Enterprises, the 11th Respondent. Many of the Contract workers have been working under the 1st Respondent from 1992 onwards and had put in more than 480 days of continuous service in 24 calendar months. The list of Contractors working under the First Respondent would show that there are about 132 Contractors under the First Respondent. It is only from 1994 onwards Contract Labourers are introduced in various manufacturing and processing units including electrical, fabrication, erection, limestone and raw material shifting, packing and loading, etc. Contract labourers are employed for mining activities in the mines at Madukkarai and Valayar also. Even though lime is extracted continuously from the mines, the regular workers in the mines have been replaced by contract workers. The contract labourers are exploited by the First Respondent as well as the various Contractors. The work done by these workers are permanent and perennial in nature and is part and parcel of production activities. At the time of inception of the factory, contract labour system was not prevailing in the factory. However, at present out of the total 800 employees almost 50% are employed under various Contractors. The provisions of the Contract Labour (Regulation and Abolition) Act is not followed. The petitioner had requested the First Respondent by its representation dated 15.03.2006 to stop engaging contract labourers in all the units. The workers are not given bonus, festival leave, overtime wages or other leave benefits even though they are statutorily eligible for these. The workers have not been regularized even though they have been working continuously. In reply to the representation from the petitioner the First Respondent has stated that it is not possible to regularize the contract workers. The contract workers are under the direct supervision of the First Respondent though engaged for namesake under a Contractor. The First Respondent has not been recruiting employees in the vacancies arising even on retirement. When conciliation proceedings was pending before the Asstt. Labour Commissioner the Management instigated a Contractor to intimidate the workers and threatened them to sever their membership with the Petitioner Union. The First Respondent also dismissed 27 contract labourers belonging to Petitioner's Union from service orally, between 27.10.2006 and 31.10.2006, under the pretext of transferring them to other States. An order may be passed holding that the contracts by which the concerned workmen are employed by the First Respondent are sham and nominal and also holding that the workmen are entitled for permanent absorption with the First Respondent and are also entitled to pay on permanent scale and all other attendant benefits.

4. The First Respondent has filed Counter Statement contending as follows :

The First Respondent has 14 cement factories throughout the country. In the Madukkarai unit it has got two limestone mines, one at Madukkarai and another at Valayar. There is an employee's colony with 750 quarters for employees of different level put up in an area of 45.62 acres. It is the responsibility of the First Respondent to provide roads, water supply and electricity to the residents of the employees colony. Periodically, civil repair work, whitewashing, painting, etc are also to be done. These jobs are of different dimensions with regard to frequency, duration and volume of work. Even though the First Respondent is having its own maintenance staff for regular and preventive maintenance in the factory, contract labour is resorted to for carrying out jobs which do not add value to the products. Other cement factories are also engaging contract labour for such purposes. The First Respondent is registered as a principal employer under the Contractor Labour (Regulation and Abolition) Act. Contractors are primarily engaged for civil work, pipeline work, electrical installation, maintenance of roads, cleaning of the colony, cleaning of the factory premises, gardening, unloading of personal effects, fabrication, mechanical repairs, etc. Before the date of reference, the Second Respondent had terminated the contract settling all dues with the First Respondent. The Fourth Respondent had also terminated the contract in August 2007. The First Respondent had entered into written contract with each of the Respondents 2 to 10. It used to issue purchase orders specifying the nature, quantum and rates for the work. The contractors used to maintain separate muster roll and also wage register for their workmen who were engaged as contract labour. The First Respondent used to depute its representative to be present at the time of disbursement of wages to the contract labour. Beyond that the First Respondent was not exercising any supervision or control over the workmen engaged by Respondents 2 to 10. The contracts between the First Respondent and other Respondents are real and genuine. The allegations that the contracts are sham and nominal is not correct. Apart from Respondents 2 to 10, there are 35 more Contractors carrying out contract jobs for the factory and the colony. Respondents 4 to 10 were not made parties to the conciliation proceedings. It is incorrect to state that the contract labour were engaged for work of perennial nature directly connected with the factory. The petitioner is not entitled to any relief.

5. The Second Respondent has filed Counter Statement contending as follows:

The Second Respondent was doing contract work for the First Respondent. He was carrying out mechanical fabrication and engineering jobs for the First Respondent. He had terminated the contract in July 2009. Out of the 30 workmen purportedly under the second Respondent 20 workers were not in his employment at the time when the contract was terminated. The First and Second Respondent having terminated the contract, the claim against him has become infructuous.

6. The Third Respondent has filed Counter Statement contending as follows :

None of the workmen of the Third Respondent made a demand for absorption in the service of the First Respondent. The Third Respondent has only 54 workmen on its rolls at present. The Third Respondent has entered into contract with the First Respondent for carrying out the work assigned to it. The workmen were paid wages and contributions were made to the Provident Fund and ESI on their behalf. There is no scope for the contention that the contract is sham and nominal. The petitioner is not entitled to any relief.

7. The Fourth Respondent has filed Counter Statement contending as below:

The Fourth Respondent had no knowledge of the dispute until it had entered appearance before this Tribunal. The Fourth Respondent has terminated the contract in August 2007 and has disbanded its workforce. He had settled the claim of all 13 workmen whom he had engaged when the contract was in operation.

8. The Fifth Respondent has filed Counter Statement contending as follows:

None of the workmen of the Fifth Respondent had made a demand for absorption in the service of the First Respondent. At present there are 55 workmen on the rolls of the Fifth Respondent. The claim is in respect of 59 workmen of the Fifth Respondent out of which 14 had left. The First Respondent used to give periodical purchase orders for work to be done and pay charges for the same. All payments for the Fifth Respondent used to be made by cheque. The petitioner is not entitled to any relief.

9. The Sixth Respondent has filed Counter Statement contending as below:

The Sixth Respondent had been a Contractor for the First Respondent from the year 1996. When the number of his workmen exceeded 20, he had taken license under the Contractor Labour (Regulation and Abolition) Act, in 2004. Now there are 107 workmen on the roll of the Sixth Respondent. The claim is made in respect of 20 workmen out of which 8 have left. The other 95 workmen have not raised any dispute. The sixth Respondent has been discharging all his statutory obligations in respect of the workmen engaged by it. The petitioner is not entitled to any relief.

10. The Seventh Respondent has filed Counter Statement contending as below:

None of the workers of the Seventh Respondent had made a demand to get absorption in the service of the First Respondent. Out of the 22 workmen of the Seventh Respondent referred to in the Claim Statement, 8 have left. The Seventh Respondent would be left without any business if the claim of the petitioner is accepted. The petitioner is not entitled to any relief.

11. The Eighth Respondent has filed Counter Statement contending as below:

The Eighth Respondent is engaged in the work of cleaning, loading and unloading, water supply, pipeline work, etc. Out of the 27 workmen of the Eighth Respondent referred to in the Claim Statement, 10 have left. The remaining workmen had not made any demand for absorption in the service of the First Respondent.

12. The Ninth Respondent has filed Counter Statement contending as follows:

None of the workmen of the Ninth Respondent had made any demand for absorption in the service of the First Respondent. The Ninth Respondent used to take contract for electrical wiring and installation work. At present there are only 8 workmen on its rolls. The claim is made on behalf of 3 workmen out of this. The Ninth Respondent has been discharging all its statutory obligations in respect of the workmen engaged by it. The petitioner is not entitled to any relief.

13. The Tenth Respondent has filed Counter Statement contending as below:

The workmen of the Tenth Respondent did not raise any demand for absorption in the service of the First Respondent. At present there are 48 workmen on the rolls of the Tenth Respondent. The Tenth Respondent has been discharging all its statutory obligations.

14. The Eleventh Respondent has filed Counter Statement contending as below:

The Eleventh Respondent has taken up contract for machinery maintenance of the First Respondent during the year 1998. Initially it had engaged 18 contract labourers. When the strength of the workmen exceeded 20 the Eleventh Respondent obtained license under CLRA Act. By the year 2006 the Eleventh Respondent had been engaging contract labour in plants of the First Respondent at Wadi, Chaibasa and Lakheri also. Altogether there were 400 workers and they were working as Fitters, Welders, Khalasis, etc. The Eleventh Respondent is stationed at Bhilai, Chattisgarh. He had posted one Raju Daniel as Supervisor in the First Respondent establishment. He was supervising all the contract labourers. Supervisor was allocating the work to the contract labours. All the contract labour used to report to the Supervisor and was under his control. During September 2006 ACC Ltd. had given additional job to the Eleventh Respondent in plants at Lakheri, Chaibasa, Jamui, Durg and Wadi. So it became necessary to mobilize more number of experienced workmen for deployment. He informed the First Respondent that he will be dismantling his workforce in the First Respondent and re-deploying them to various other plants. Accordingly, between 27.10.2006 and 31.10.2006, 69 workmen who were working with the Eleventh Respondent were deployed in other plants. Out of this 27 contract labour failed to join the plants to which they were deployed. The Eleventh Respondent became the Contractor for the First Respondent from the 1999 onwards only. So the allegation that workers were working from the year 1992 is not correct. The work performed by the contract labour was not perennial or permanent in nature. The petitioner is not entitled to any relief.

15. The petitioner in ID 1/2010 is the petitioner in ID 2/2010 also. The 1st Respondent in ID 1/2010 representing ACC Ltd. and the Eleventh Respondent (M/s. Dutta Enterprises) are the Respondents in ID 2/2010. According to the Petitioner Union it had raised certain demands by its Demand Letter dated 08.04.2006. Since the Respondents did not concede to its demands, a dispute was raised before the Assistant Labour Commissioner (Central). When the demand made by the petitioner as per letter dated 08.04.2006 was pending before the conciliation authority the Third Respondent have orally transferred its 7 members on 27.10.2006 to Chaibasa, Lakheri and other ACC units. Later, on 31.10.2006 another 20 members were transferred to far off places in North India. When these workers reported for duty, they were denied job on the pretext of transfer and they were orally terminated from service. The petitioner has alleged that all the 27 employees were working under the 2nd Respondent under the direct supervision of the First Respondent. It is further stated that all those employees were employed in permanent job inside the factory and mines. The petitioner has alleged that the 2nd Respondent was acting just as a labour agent supplying labourers and had no character of a genuine Contractor. Their engagement is said to have been with the intention of exploiting them. In the ID the petitioner has claimed the relief of an award holding that the contract between the 2nd Respondent (Dutta Enterprises) and other Respondents are sham and nominal, that the termination of the 27 workmen is illegal, that they are entitled for reinstatement with backwages, continuity of service and all other attendant benefits.

16. The 1st Respondent had filed a Counter Statement almost in tune with the Counter Statement filed in ID 1/2010 denying the case of the petitioner that the contract is a namesake one. It has further stated that the 2nd Respondent was awarded contract for maintenance of pollution control equipments and in due course the maintenance of captive power plant, coal handling plant, raw mill, cement mill and kiln were added to his contract and he has taken license under the Contract Labour (Regulation and Abolition) Act (CLRA). It is further stated that in the year 2006 the 2nd Respondent has disbanded his work force at Madukkarai and had posted them at other plants and the contract with the Second Respondent was put an end to at the end of October, 2006. According to these Respondents, the 27 persons mentioned in the Claim Statement are working as contract labour and there is no question of considering their claim for absorption with the First Respondent.

17. The 2nd Respondent has filed a Counter Statement denying the allegations in the Claim Statement. It is stated as below in the Counter Statement :

In the year 1991 the ACC Ltd. had entrusted the work of Engineering, Maintenance and Repair work in the plant at Madhya Pradesh to the 2nd Respondent. Subsequently, the 2nd Respondent was requested to take up the contract of machinery maintenance at the First Respondent and accordingly it had taken up the contract in the year 1998. When the strength of the workmen increased to more than 20, the 2nd Respondent had obtained license under CLRA Act. By the year 2006, the 2nd Respondent had been doing the work of the First Respondent in 6 other plants in different states as well. The number of contract labour in all the plants put together was 400 and most of them were fitters, welders and khalasis. One Raju Daniel was supervising the work of the 2nd Respondent with the First Respondent. He was allocating work to the contract labour. All the contract labour used to report to the said Supervisor. Wage was paid to the contract labour by the Supervisor under instructions of the 2nd Respondent. Wage Register and Attendance Register were maintained by the 2nd Respondent. During September, 2006 the ACC Ltd. had given additional jobs to the 2nd Respondent in other plants. So the 2nd Respondent required more manpower in the new work spots. He decided to dismantle the work force with the First Respondent and re-deploy them to various other plants. Accordingly, between 27.10.2006 and 31.10.2006, 69 workmen who were working as contract labour with the 2nd Respondent were deployed to different places such as Chaibasa, Lakheri, Durg, Wadi and Jamui. The 27 workers who are the workmen concerned in the Claim Statement obtained Travel Allowance but failed to join the plant to which they were deployed. The Petitioner Union had not raised any dispute about absorption. The allegation that the employees were working from the year 1992 is not correct. The 2nd Respondent had become a licensed contractor of the First Respondent from the year 1999 only. It is not correct to state that the 2nd Respondent was only a namesake Contractor. All the employees were paid minimum wages. The work performed by them was not perennial or permanent in nature. There had been no termination of service of any of the employees. The contract between First and 2nd Respondent had come to an end. The contract was a genuine one. The petitioner is not entitled to any relief.

18. The petitioner had filed rejoinder in answer to the Counter Statement of the Respondents, denying their allegations.

19. The two cases were tried jointly on the basis of the joint memo filed by the counsel on both sides, the parties to ID 2/2010 being parties to ID 1/2010 as well and also because the issues to be considered are almost the same. Evidence was recorded in ID 1/2010 which is the main case. The parties are hereinafter referred to in accordance with their ranks in ID 1/2010 if not otherwise referred to.

20. The evidence in the cases consists of oral evidence of WW1 and WW2 and MW1 and documents marked as Ext.W1 to Ext.W78 and Ext.M1 to Ext.M27.

21. **The points for consideration are:**

- (i) Whether the contracts between the First Respondent and Respondents 2 to 11 in ID 1/2010 are sham and nominal?
- (ii) Whether the workmen involved in ID 2/2010 are entitled to the relief of reinstatement?
- (iii) Whether the concerned workmen are entitled to be permanently absorbed with the First Respondent?
- (iv) What are the reliefs to which the parties are entitled?

The Points

22. The dispute is mainly between ACC Ltd. at Madukkarai, Coimbatore the 1st Respondent and the Petitioner Union. The petitioner had annexed a list of the names of 269 workmen said to be working under the different Contractors with the First Respondent. The list shows the names of the Contractors through which they were employed also. The schedule of reference in ID 1/2010 is whether the contract between the First Respondent and its various Contractors are sham and nominal. However, in the Claim Statement the petitioner has named Respondents 2 to 11 as the 10 Contractors under whom the concerned workmen are working and not all the Contractors.

23. The case that is advanced by the petitioner is that the workmen concerned were doing work of a perennial nature and they had been working with the First Respondent for several years without any break and they are actually the workmen of the First Respondent itself. It is alleged by the petitioner that the contracts said to have been entered into by the First Respondent with the other Respondents are sham and nominal and they are to be treated as the employees of the First Respondents and they are to be absorbed in the service of the First Respondent. The relief claimed in ID 1/2010 is to find hold that the contracts are sham and nominal and also to absorb the concerned workmen in the service of the First Respondent. All the Respondents have filed Counter Statement resisting the case that the concerned contracts entered into with the First Respondents are sham and nominal. In ID 2/2010 reinstatement and absorption are claimed alleging that those involved in that were terminated under the pretext of transfer.

24. The initial question to be considered is whether the case of the petitioner that the contracts are sham and nominal is true. The case of the 11th Respondent, Dutta Enterprises can be considered first. It is the 11th Respondent that had transferred 27 employees to various places in North India for the alleged purpose of re-deployment. Their case is that it had put an end to its contract with the First Respondent to concentrate in the work with other plants of ACC Ltd. The transfer of the 27 employees are said to have been for the purpose of re-deployment consequent to the disbanding of its work at Madukkarai plant.

25. The 27 workmen concerned are named in the list of the petitioner alongwith the Claim Statement in ID 2/2010. They are named in the list attached to the claim statement in ID 1/2010 also. One among them has been examined as WW2.

26. The petitioner has stated in the Claim Statement that the majority of the workers have started working from 1992 onwards. It is also stated in the Claim Statement that the contracts entered into by the First Respondent with the other Respondents including Dutta Enterprises are sham and nominal and actually they are working for the First Respondent and their work was being supervised by the First Respondent. WW1, the General Secretary of the Petitioner Union as well as WW2 have given evidence to establish the case that the contract is sham and nominal. Apart from that, various documents are produced by the petitioner to prove the case. The counsel for the petitioner has pointed out that as revealed from the documents the First Respondent as well as other Respondents had not complied with the various provisions of CLRA Act regarding registration, license, etc. Apparently, the First Respondent has obtained registration under the Act and the other Respondents have obtained license also. As pointed out by the counsel for the petitioner the license produced will not cover the entire period. License pertaining to certain period are not seen produced at all. However, there is no necessity to probe into these aspects in detail in view of the existing legal position. The counsel for the First Respondent had referred to the decision in MUNICIPAL CORPORATION OF GREATER MUMBAI VS. K.V. SHRAMIK SANGH AND OTHERS reported in 2002 4 SCC 609 in this respect. Here the Apex Court has held that merely because the principal employer was not registered under Section-10 of the CLRA Act or because the Contractor had not obtained license under the Act it could not be concluded that labour contract was sham or a camouflage. On the other hand, whether a contract is sham and nominal is to be decided based on the evidence available. Another decision referred to by the counsel for the First Respondent in this respect is NATIONAL THERMAL POWER CORPORATION AND OTHERS VS. BADRI SINGH THAKUR AND OTHERS reported in 2008 9 SCC 377. Here also it was held that a conclusion that the contract was sham or only a camouflage cannot be arrived at as a matter of law for non-compliance with the provisions of the CLRA Act but a finding must be recorded based on evidence particularly when disputed, by an industrial adjudicator as laid down in various decisions including the Constitution Bench Judgment in SAIL (2001 7 SCC 1). The counsel has also referred to the decision in GENERAL MANAGER (OSD), BENGAL NAGPUR COTTON MILLS, RAJNANDGAON VS. BHARATLAL AND ANOTHER reported in 2011 1 SCC 635 in this respect. Here also the Apex Court has held that merely because the principal employer and contractor had not complied with the provisions of the CLRA Act the system of carrying out work through contract labour could not be termed as sham. So it is apparent that merely because the principal employer does not have registration under CLRA Act or has committed some irregularity in obtaining registration or because license obtained by the Contractors are not proper or even the fact that they are not having license at all are not factors which should influence the decision on an issue whether a contract is sham and nominal.

27. The counsel for the First Respondent has also argued that there is nothing to show even in the evidence that the contracts entered into with the respective Contractors are sham and nominal. The counsel has referred to the decision of the Apex Court laying down the principles on the basis of which the question regarding the nature of the contract is to be considered. Reference was made to the decision in INTERNATIONAL AIRPORTS AUTHORITY OF INDIA VS. INTERNATIONAL AIR CARGO WORKERS UNION AND ANOTHER reported in 2009 13 SCC 374 in this respect. The Apex Court has held here that the industrial adjudicator can grant the relief sought if it finds that the contract between the principal employer and the Contractor is sham, nominal and merely a camouflage to deny employment benefits to employee and that there is in fact a direct employment, by applying tests like who pays the salary, who has the power to remove/dismiss from service or initiate disciplinary action, who can tell the employee the way in which the work should be done and in short who has direction and control over the employee. In the Bengal

Nagpur Cotton Mills decision referred to earlier also this has been stated. It has been observed therein that two of the well-recognized tests to find out whether the contract labour is a direct employee of the principal employer are whether the principal employer pays the salary instead of the Contractor and whether the principal employer controls and supervises the work of the employee.

28. In the present case by merely answering the question as to who is paying the salary, the issue could not be decided. When the Wage Registers marked as Ext.W65 to Ext.W69 and the Wage Slips marked as Ext.W70 on behalf of Dutta Enterprises are taken into account it could be seen that the payment of salary is by the Contractor itself. The Wage Registers are in the name of Dutta Enterprises and the Wage Slips would reveal payment in the name of Dutta Enterprises itself.

29. However, while considering the question who has been controlling the workers, whether the principal employer or the Contractor, it requires better probe. Apart from this is the fact that the two tests referred to earlier are not exhaustive but only inclusive in considering the question. It is apparent from the subsequent decisions of the Apex Court that any relevant matter should be considered in deciding the question. The counsel for the petitioner has referred to the decision in *RAM SINGH AND OTHERS VS. UNION TERRITORY, CHANDIGARH AND OTHERS* reported in 2004 1 SCC 126 in this respect. It has been held in this that though in determining the relationship of employer and employee control is one of the important tests, it is not to be taken as the sole test but all other relevant facts and circumstances are required to be considered including the terms and conditions of the contract. It is necessary to take a multiple pragmatic approach weighing up all the facts for and against the employment and instead of going by the sole test of control, an integrated approach is needed, it was further held. It has also been observed that if an employer retains and assumes control over the means and method by which the work of a Contractor is to be done it may be said that relationship between the employer and employee exists between him and the servants of such a Contractor and that in such a situation the mere fact of formal employment by an independent Contractor will not relieve the master of liability where the servant is in fact in his employment. In such event it may be held that an independent Contractor is created or is operating as a subterfuge and the employee will be regarded as the servant of the principal employer. Whether a particular relationship between employer and employee is genuine or a camouflage through the mode of a Contractor is essentially a question to be decided on the basis of the features of the relationship, the written terms of employment, if any and the actual nature of the employment, it was held. The counsel has also referred to the decision in *BHILWARA DUGDH UTPADAK SAHKARI S. LTD. VS. VINOD KUMAR SHARMA AND OTHERS* reported in 2011 LLR 10 79 in this respect. In this the Apex Court has observed referring to contract system that labour statutes are meant to protect the employees/workmen because it was realized that the employers and the employees are not in equal bargaining position and the protection of employees was required so that they may not be exploited, but the new technique of subterfuge has been adopted by some employers in recent years in order to deny the rights of the workmen under the various labour statutes by showing that the concerned workmen are not their employees but are the employees/workmen of a Contractor or that they are merely daily wager or short term or casual employee when in fact they are doing the work of regular employee. It was observed that such practices cannot be countenanced and that globalization / liberalization in the name of growth cannot be at the human cost of exploitation of workers. It is apparent in view of the proposition revealed from the above decisions that apart from the two aspects, who pays the salary and who is in control, other relevant and material aspects are also to be considered in deciding whether a contract is sham or nominal.

30. The case of the petitioner is to be considered in the background of the dictum promulgated through the above decisions also. The case that is put forth on behalf of the petitioner is that the types of work for which Contractors are engaged are already abolished through the recommendations of the Wage Board and subsequent Awards and in spite of that the First Respondent has been resorting to the practice by taking advantage of the exceptions provided in the Award. According to the counsel the First Respondent has been using the Wage Board recommendations and the Awards as a cover to enter into contracts and this very fact makes the contracts sham and nominal. In this respect it is relevant to refer to the various terms of Ext.W50, the Award of 1983 between employees in relation to Cement Manufacturers Association and their workmen. Admittedly, the Award is still binding on the manufacturers and the workmen. The Award refers to the previous Award and the recommendations of the Wage Board. It has been admitted by MW1 examined on behalf of the First Respondent that the Award is binding on the First Respondent. Apart from this in the notes of argument, the First Respondent referred to the previous Award and also the recommendations of the Wage Board that are referred to in Ext.W50.

31. It could be seen from Ext.W50 that the Cement Manufacturers could engage Contractors only for specified jobs and there should be direct employment for all other jobs. Ext.W50 Award has extracted from the recommendations of the First Wage Board for Cement Industry which states that the recommendations should apply to all cement industry and quarries throughout India, whether the factories are already in production or will come into production in the future. The recommendations are to be applied to the workers employed directly or through Contractors. One exception is that it shall not cover workers employed by Contractors where such workers are engaged on construction work and on purely temporary jobs not connected with the manufacturing process. While considering the demand of the workers

federation that no contract labour shall be engaged inside the factory or in the mines or on repair jobs of the roads of the mines or on the connecting road where the company's dumpers and trucks ply, the Award states that even in the earlier Award it has been stated that the contract labour stands abolished by unanimous recommendations of the Wage Board as far back as 1960 in all occupations except unloading, loading and packing and the only exception is those employed in construction work or work of a purely temporary nature not connected with the manufacturing process. Thus it could be seen that one of the exemptions is regarding workers engaged in construction work and on purely temporary jobs which are not connected with the manufacturing process. Even if it is temporary job, if it is connected with the manufacturing process contract workers cannot be engaged. Another exemption given is in the area of transportation of limestone from quarries. The Award is not to apply to such workers working under Contractors transporting limestone from quarries beyond 10 kms. If the distance from quarry to factory is 10 kms. or less the work shall be done departmentally. The Award even directed that if anyone is employed in any occupations other than permitted, such labour shall be made regular departmental employees under the employer and made eligible to the same wages and other benefits as payable to the regular employees in similar occupations.

32. In the light of terms of Ext.W50 and the recommendations of the Wage Board extracted by it, it is to be seen if engagement of workers through Dutta Enterprises by the First Respondent is in violation of them. If the engagement is in violation of the terms it will be an unfair labour practice as contemplated in Schedule-V of the Industrial Disputes Act. Item-13 of the Award states that failure to implement Award, Settlement or Agreement is an unfair labour practice. If engagement is made resorting to unfair labour practice on the basis of a contract, such contract is certainly sham and is only a subterfuge used by the employer.

33. The First Respondent has not stated specifically in its Counter Statement that contract with Dutta Enterprises is only in respect of construction activity or temporary job unconnected with the manufacturing process. What is stated is that there has been a maintenance department in the First Respondent establishment which used to attend to preventive maintenance and repairs to the machinery used to be carried by sending parts of components to outside workshop or inviting competent technical persons to the plant to carry out repairs. It is also stated that the pollution control equipments were installed in the year 1997 and so also a captive power plant for generation of electricity was installed in 1998 and there was a suggestion by an Officer to entrust maintenance of pollution control equipments and also captive power plant to an outside agency and the maintenance and repairs of machinery in certain departments like coal handling plant, kiln, raw mill and cement mill also were suggested to be entrusted to outside agencies. The contract with Dutta Enterprises is said to have taken place on the basis of this. The implication in the Counter Statement, though there is no such specific claim, is that maintenance of equipments including that of pollution control equipments will not come under the manufacturing process and therefore the First Respondent was within its right to enter into contract for such works. Nowhere in Ext.W50 it is stated that maintenance work inside the factory is exempted from the purview of direct employment. On the other hand what could be seen from the annexure to Ext.W50 giving occupational nomenclature with job description and their classification is that this could not be done on the basis of contract. The job description includes maintenance of all machineries also. No argument has been advanced on behalf of the First Respondent that the work done by Dutta Enterprises are not connected with the manufacturing process.

34. In the Counter Statement of Dutta Enterprises there is no case at all that the work that is undertaken by it is construction work or any work which is not connected with manufacturing process. What is stated in the Counter Statement is that it had taken up the contract for machinery maintenance during the year 1998. Maintenance of the machinery of an establishment is the necessity of the establishment in the process of its manufacture and therefore it cannot be treated/apart from the manufacturing process. In the modern Society the Industry cannot be expected to run without a proper pollution control system. When considered in this manner the pollution control system also is a part of the industry itself. The establishment shall not be allowed to manufacture its products in the absence of a proper Pollution Control system.

35. Ext.W77 contains contract agreements with Dutta Enterprises detailing the jobs to be done. This is in respect of repair activities in the Kiln Department. The contract states that the work should be carried out as directed by the In-charge of the Department or any other person authorized by the Company. Thus it could be seen that the First Respondent itself was directly supervising the job as per the contract. Ext.W77 also contains maintenance contract for pollution control equipments (Page-341). The job to be carried out includes routine inspection of the bag filters, daily inspection of hoppers, routine inspection of diaphragm, regular cleaning of ESP parts, chambers, etc. Thus it could be seen that these are works to be carried out on day-to-day basis and not temporary in nature. Later part (Page-345) of the document reveals the nature of work done by Dutta Enterprises in a better manner. This is a letter to the First Respondent by Dutta Enterprises asking for an increase in the amount. This reveals that maintenance and repair activities of all pumps, hydro cyclones, floatation cells in Ball Mill and Floatation Department were done. This itself shows that it was carrying out maintenance of all the machines that were used in the manufacturing process. Again, the letter gives an account of the amount payable to different category of workers engaged by it to carry out the work. This reveals that the engagement was on day to day basis and they were engaged throughout the whole year. Page-348 of

Ext.W77 shows renewal of annual maintenance contract to optimize and upgrade cement mills, raw mills, ball mills and also to carry out improvement jobs. In the cement mill certain works were to be carried out on a daily basis. Opening and closing of the manhole doors, checking the condition of outlet diaphragm and cleaning of the sector plate slots, etc. are included in this. Page-354 also reveals works to be carried out on a day-to-day basis. In the contract the 1st Respondent has undertaken to provide quarters to the workmen though on payment basis and this also would show that the work is a continuous one and is carried out throughout the year.

36. Exts.W71 to Ext.W74 are the licenses in name of Dutta Enterprises. All these show that the licenses were for doing the work of mechanical maintenance. It does not give the details. So Dutta Enterprises was expected to do all the mechanical maintenance work as per the license.

37. Ext.W65 to Ext.W69 are the Wage Registers produced and marked by Dutta Enterprises. There is no case for Dutta Enterprises that it has not been doing any work inside the factory. As revealed from the license, the job was to do the maintenance of the equipments in the factory. The Wage Registers also would show that the workers engaged by Dutta Enterprises were working on a day-to-day basis. All of them have been working on all days of the month as revealed from the Column in the register showing the number of days worked. Though there is a column for showing the location of work, the actual location is not shown. The name of the First Respondent alone is shown in the document. So also, in the column for showing the designation / nature of work done, a loose description such as mazdoor, fitter, welder, are given. It is not known what is intended by the term "Mazdoor". The actual nature of the work done by a particular worker was expected to be shown in the Register. But this is missing. It is apparent from the Counter Statement that all the workers were engaged in the job of maintenance of machineries. So the workers categorized as Mazdoors also must have been doing some skilled labour. by way of the maintenance of the equipments. What is very much apparent from these registers is the regular nature of work done by the workers.

38. In fact there is no case either for the First Respondent or Dutta Enterprises, that the concerned workers were not being engaged on a day to day basis. What the petitioner has stated in the Claim Statement is that the workers were being engaged continuously from 1992 onwards. The only contention of Dutta Enterprises the Eleventh Respondent in the Counter Statement is that it has come into the picture only in 1999 to indicate that it has no knowledge of the employment of the concerned workmen prior to 1999. So there is implied admission on the part of the First and Eleventh Respondent that at least from 1999 onwards, the same set of workers were doing the work on their engagement. The Claim Statement has given the date of appointment of the concerned workmen. They have started to work in different dates and had been working in the establishment for several years. Even those who worked least have started to work in 2004.

39. It is apparent from the above discussion that the 27 workmen involved in ID 2/2010 have been working in the First Respondent establishment continuously and they were working inside the factory and was doing work which is connected to the manufacturing process of the factory. The counsel for the First Respondent has argued that this Tribunal is not competent to decide the question whether the work done by the concerned workmen were perennial in nature. The counsel has referred to the decision of the Apex Court in VEGOILS PRIVATE LTD. VS. THE WORKMEN reported in 1971 2 SCC 724 in this respect. It was held here that the decision of the appropriate government on the question whether any process, operation or other work is of perennial nature shall be final. This is in matters where appropriate government has undertaken to prohibit employment of contract labour. If this is not resorted to by the appropriate government the industrial adjudicator will have to consider this aspect also while deciding the question whether a contract is sham or nominal. However, in the present case Ext.50 shows which are the categories of work that are perennial in nature and in which categories direct employment should be made. So the dictum laid down is not a hindrance in taking a decision as to whether the contract between the First Respondent and the Eleventh Respondent is sham and nominal. It could be seen that under the guise that the works in question are not connected to the manufacturing process but are those coming under exemption, the First Respondent has been engaging workers as if contract workers.

40. ID 2/2010 has been filed on behalf of 27 workmen who were working with Dutta Enterprises, the Eleventh Respondent in ID 1/2010. These workmen were transferred to different places by the eleventh Respondent after the dispute which is the subject matter of ID 1/2010 has been raised and was pending. The Eleventh Respondent took a stand that it has got more work in the companies of the First Respondent at other places it is mobilizing the workmen working in Madukkarai Cement Works and is taking them to other work places by transfer, after winding up its work in Madukkarai Cement Works. These workmen had been working in the First Respondent establishment for a long time, as already stated. They have been working for the First Respondent even before the Eleventh Respondent had undertaken any work in the establishment. The transfer was effected without any notice to them. It was during the pendency of the other dispute also. They have been taken in by the 11th Respondent only for doing the work in the First Respondent establishment. In all probability the action of the 11th Respondent in transferring the 27 workmen was done in connivance with the First Respondent as the Union has raised the dispute claiming regularization of the workmen. These workmen were not bound to be transferred to the other establishments of the First Respondent. The transfer is an

illegal one and is to be treated as illegal termination of the workmen. It is already found that their engagement by the Eleventh Respondent is in violation of Ext.W50 and Wage Board Recommendations and the contract is to be treated as sham and nominal. So the 97 workmen are to be treated as the workmen of the First Respondent. The First Respondent is bound to reinstate and regularize them in service with effect from the date on which the dispute was raised.

41. The First Respondent has raised a contention that the Union has raised the demand for regularization of workmen by the Charter of Demands marked as Ext.M20 and this demand has been given up while entering into settlement subsequently and the Union is not entitled to raise the dispute for this reason. Demand No. 36 in Ext.M20 dated 19.10.2004 is that all employees whether casual contract, etc. shall be made permanent and paid monthly salaries and allowances on par with other workmen and no contract worker shall be employed directly or indirectly in any Department on perennial nature of jobs and all such existing workers shall be departmentalized in the respective departments. It has been pointed out by the counsel that during the earlier settlements also the matter has been raised, but settlements were entered into giving up the demand. Reference was made to Exts.W4 to Ext.W6 in this respect. For example in Ext.W6, the settlement of 2005, Clause-12 states that the settlement has been arrived at to settle all the demands jointly raised and no further demands have been raised during the pendency of the settlement. The counsel has also referred to the admission made by WW1, the General Secretary of the Petitioner Union in this respect. He has admitted during his cross-examination that in all Charter of Demands there will be one demand consistently made that no contract workman shall be employed directly or indirectly in any department on perennial nature of jobs and also that such existing workers shall be departmentalized. He has also admitted that all the demands including this except those that were dealt with in the settlement were not pressed. Ext.M23 the latest Charter of Demands show that such a demand was there even in the charter submitted during the pendency of the proceedings. As per Ext.M24 the settlement arrived at consequently all demands other than those which were dealt with in the settlement were dropped.

42. The counsel for the First Respondent has argued that the petitioner union could not have raised the dispute at all as the demand has been given up when the settlement was entered into. In this respect the counsel has referred to the decision reported in the *MANAGEMENT OF BINNY LTD. VS. GOVERNMENT OF TAMIL NADU AND OTHERS* reported in 1989 1 LLJ 180. Here it has been held that the bar to the reference of the dispute covered by a settlement is the direct result of the legal position that when a dispute between the workers and the employer is concluded by a settlement which binds them no Industrial Dispute relating to any item covered by the settlement can come into existence or can be apprehended. The party bound by the settlement cannot be allowed to raise an Industrial Dispute with regard to the matters covered by the settlement, it has been further held. According to the counsel for the First Respondent, the Union having given up the demand for regularization of the contract workmen by Ext.W6 settlement it was not entitled to raise the dispute at all. But this dictum laid down in the above decision is not applicable to the facts of the present case in view of Ext.W50. Reference has already been made to Wage Board Recommendations which has banned employment of contract workers in Cement Industry except in certain areas including construction work and loading and unloading. I have already found that the 27 workmen employed through Eleventh Respondent were working inside the factory doing work, not coming within the exemptions. In spite of the demands having been given up by the settlements the Union is entitled to raise the dispute because of the abolition. The Tribunal is entitled to adjudicate whether the engagement is in violation of the abolition.

43. What is the position of the other workmen working under Respondents 2 to 10? What is the nature of work done by them? The few Muster Rolls and Registers produced by the petitioner are not of much help in this respect. No documents are available in respect of the work done by Respondents 2, 4 and 9. The Muster Rolls and Registers in respect of the Third Respondent (Ext.W51 and Ext.W52) states that the work done is of civil and mechanical in nature. It is not stated whether the work done is inside or outside the factory. The designation of the workers are given as Plumber, Welder, etc. So far as the Fifth Respondent is concerned it is stated that the work is done inside and outside the factory. But the designation is not seen. In the case of Respondent No. 6 neither the designation nor the location of work are available in most of the Registers. In Ext.W56 it is recorded as inside and outside and in Ext.W55 as inside. In the case of Respondent No. 7 the nature of work is shown as Civil and the designation is shown as Mazdoors mostly. The location of the work is not shown. In the case of the 8th Respondent also designation is shown as Mazdoor and work is shown as inside and outside the factory. In the case of 10th Respondent also the location is shown as inside and outside, but the column for designation is not filled-up.

43. The other documents available also are not of much help in advancing the case of these workmen. Ext.W37 contains the specimen of some agreements entered into between the First Respondent and the other Respondents who are the Contractors. One such agreement of 2006 between the First Respondent and Bharati Builders, the Fifth Respondent states that the contract is for providing services of miscellaneous civil and cleaning jobs. The contract is for Rs. 30.00 lakhs. Another such agreement of 2010, also with the Sixth Respondent is for providing civil and mechanical jobs and the amount involved is Rs. 48.00 lakhs. An agreement of the year 2006 with the Sixth Respondent is to provide services of miscellaneous civil jobs, building construction, fabrication and erection jobs, the amount involved being Rs. 29.00 lakhs. There is another agreement of 2010 between the same parties undertaking same type of

work and also loading and unloading jobs for an amount of Rs. 88.00 lakhs. One such agreement of 2006 with Respondent No. 7 is to provide services of civil and miscellaneous fabrication jobs and the amount involved is Rs. 18.00 lakhs. There is another agreement of 2010 also for the same work. The agreement of 2008 with the Eighth Respondent is for providing service of repairs of pipelines and unloading of stores materials. There is an agreement of 2010 also of the same type. The agreement of 2006 with the Third Respondent is to provide services of civil, fabrication and erection jobs. The agreement of 2010 with the same party is for civil jobs, railway track maintenance and pipeline jobs. There is a contract of 2008 with the Tenth Respondent for road cleaning and sanitation jobs. Similar contract for similar work in 2010 also is there.

44. Ext.W41 contains a few work orders/purchase orders in favour of some of the Contractors. A work order of 2006 with the Fifth Respondent is for constructing Compound Wall near the Railway Bridge. There is one more work order for excavation, dismantling of brick wall, RR masonry, plastering, etc. There is still another order of 2010 for excavation, dismantling, etc. with the same Respondent. The order with Respondent No. 6 of the year 2006 is for concreting the road at a particular area, whitewashing, etc. There is the order of 2006 to the Seventh Respondent for material shifting from a particular area. The order of 2009 with the Eighth Respondent is for loading and unloading, but without specifying from which area. The work is to be carried out as and when required. There are other orders to the Eighth Respondent for loading and unloading to be done manually, by the use of Crane, etc. The work seen entrusted with the Third Respondent in 2006 is repair of water pumps and pipelines to the factory and colony area. Another order of 2008 is for carpentry repairs in the quarters. In 2009 there is an order for doing certain dismantling work entrusted to the Tenth Respondent. In 2010 there is another order for dismantling the wall, brickwork, removing doors and windows, plastering, etc.

45. Most of the above purchase orders and agreements are for works related to construction, loading and unloading, etc. WW1 has admitted during his cross-examination that the employees colony at Madukkarai is situated in an area of 45.62 acres with 750 houses. He also admitted that the 1st Respondent is providing water and electricity and also maintaining the roads for the colony and that there would be civil repair and construction work throughout the year. He also admitted that 85% of the contract workers might be engaged in civil and electrical work in the colony. So it could be seen even from the admission of WW1 that a lot of construction work is required in the quarters for the employees of the factory as well as perhaps for the factory also. It could be seen from the agreements and purchase orders referred to earlier that most of them are regarding construction work or work related to construction or for loading and unloading. It is to be remembered that there is no bar in engaging contract workers for construction work in cement industry. None of the workers who are working through Respondents 2 to 10 have come forward to give evidence. It could not be ascertained from the documents produced what is the nature of job done by these workmen, whether they are doing work connected with manufacture inside the factory or mines or whether they are doing some work related to construction. In the list attached to the proof affidavit filed by WW1, the nature of work done by the workers are not given. It is not possible to ascertain from the available documents or evidence what is the kind of work done by other workmen, whether it is something related to factory or something that comes under the exception. In the absence of such conclusive evidence it could not be stated that those workmen other than the 27 workmen who were working through the Eleventh Respondent are working under contracts that are sham and nominal, that the contracts are being used as a camouflage to make them do work in contravention of the ban. So the claim of the petitioner on behalf of these workmen for absorption with the First Respondent is to be rejected.

46. The counsel for the petitioner has pointed out that there is disparity in the payment of wages to the contract workers and other workers. According to him even the minimum wages prescribed by the Government has not been paid. However, the relevant notification has not been produced by the petitioner. In any case it could be deciphered from some of the pay-slips in respect of the contract workers and the permanent workers that there is huge disparity in the wages between the two classes. Ext.W17 contains several pay-slips in respect of the workers of the Eleventh Respondent, Dutta Enterprises. The monthly payment seen made in the year 2006 to a worker is around Rs. 3,000/-. Ext.W18 is the wage slip in respect of a permanent worker of the lowest category. The payment seen made is about Rs. 10,000/-. There is also Ext.W23, another wage slip in respect of a permanent employee which also shows huge disparity. It could be seen from the agreements and work orders that several of the workers are engaged for loading and unloading also. As per Wage Board Recommendations reiterated in Ext.W50, the arbitration award will not apply to workers working under Contractors, transporting Limestone from Quarries beyond 10 kms. However, if the distance from the quarry to the factory is 10 kms or less it should be done departmentally. It is admitted by MW1 that the quarry at Madukkarai is within 10 kms. from the factory while the quarry at Walayar is situated more than 10 kms. So those persons engaged for the transport of Limestone from Madukkarai to factory must necessarily be permanent workers. If not they are entitled to be made permanent. Others might be contract workers. The same type of work is being carried out by permanent workers as well as contract workers. As per Ext.W50 all the workers employed in permitted occupations of loading (including packing) and unloading shall be given the same wages, bonus and other benefits as are given to the regular employees of the Company. In that case all those contract workers who are doing loading and

unloading work are entitled to same wages and other benefits as that of permanent workers. It is for the 1st Respondent to see that they are paid on par with the regular workers doing similar work.

47. It was contended on behalf of the Respondents that none of the concerned workmen are members of the Petitioner Union, that a resolution has not been passed by the General Body of the Union to take up the cause of the concerned workmen and for this reason the Petitioner Union has no authority to raise the dispute. In answer to this petitioner has later produced Ext.W78 the resolution passed by Union. This document was marked on consent indicating that its authenticity is not disputed. By the resolution the general body of the petitioner union has decided to insist the Management to extend the pay and other benefits to the construction workers engaged in production activity on par with that of permanent workmen. It was also resolved to insist the Management to implement the national settlement. It is thus clear that the general body has decided to take up the cause of the contract workers.

48. Apart from the above, it could be seen from the evidence that the Petitioner Union has all along been taking up the cause of the contract workers of the establishment. In all Charter of Demands made earlier the issue of regularization of contract workers has been raised and this was being considered during negotiations for settlement also. It is true that the First Respondent has always been rejecting the proposal for regularization and this was being accepted by the Union also. However, the fact remains that the Petitioner Union has been actively taking up the cause of the contract workers and their authority to do so was recognized by the First Respondent also. In such circumstance it is idle for the First Respondent to hide under the technical contention of absence of locus-standi for the Union to take up the cause. This contention has to be rejected.

49. In view of the above discussion the references are to be answered partly in favour of the petitioner.

The 27 workers named in ID 2/2010 shall be deemed to have been in the service of the First Respondent. They shall be reinstated and absorbed in the regular service of the 1st Respondent with effect from the date on which the dispute was raised.

They are entitled to regular scale of pay and other benefits from the date on which the dispute was raised. In default of payment of arrears of pay and other benefits within two months the amount will carry interest at the rate of 7.5% per annum from the date of the Award.

Awards are passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this day the 2nd June, 2017)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1 st Party/Petitioner	:	WW1. Sri C.V. Subramanian
	:	WW2, Sri A. Lakshmi Narayanan
For the 2 nd Party/Management	:	MW1, Sri P. Lakshminarasimhan

Documents Marked :

On the petitioner's side

Ex.No.	Date	Description
Ex.W1	-	Registration Certificate of the Petitioner Union
Ex.W2	05.07.1977	Certified Standing Orders of ACC Ltd., Madukkarai
Ex.W3	20.07.1983	Gazette Notification of extract of Arbitration award in Industrial Dispute
Ex.W4	26.03.1996	Memorandum of Settlement of wages and other benefits
Ex.W5	14.08.2000	Memorandum of Settlement of wages and other benefits
Ex.W6	26.04.2005	Memorandum of Settlement of wages and other benefits
Ex.W7	08.04.2006	Letter from the Union to the Dy. Chief Commissioner of Labour
Ex.W8	09.11.2006	Representation of employees for their refusal of employment (series) to the Respondents in ID No. 2 of 2010
Ex.W9	22.11.2006	Letter from the 1 st Respondent to the Assistant Labour Commissioner (Central)
Ex.W10	25.09.2007	Letter by Union under RTI Act to the ALO (C), Chennai-6

Ex.W11	26.11.2007	Letter from the Union to the ALO (Central)
Ex.W12	26.11.2007	Letter of the Union to ALC (C), Chennai-6
Ex.W13	05.12.2007	Information regarding details of registered contractors of Respondent Management
Ex.W14	29.01.2008	Letter from the Ministry of Labour to the Secretary to Government of India
Ex.W15	15.04.2008	Letter of Desk Officer, Government of India, Ministry of Labour, New Delhi
Ex.W16	06.10.2009	Orders of Hon'ble High Court in WP Nos. 14314 and 14315 of 2008
Ex.W17	-	Wage slips of employees issued to Contract Labourer (Specimen)
Ex.W18	-	Pay of regular lowest paid employee (specimen)
Ex.W19	24.06.1992	Agreement of Settlement on wages from 01.04.1992
Ex.W20	15.03.2006	Representation of the Union to dispense with the contract labour system to the Management
Ex.W21	15.03.2006	Representation of the Union to dispense with contract labour system to the Regional Labour Commissioner
Ex.W22	10.04.2006	Representation of the Union to dispense with contract labour system in the Mines Department
Ex.W23	October 2006	Pay details of a basis level permanent employee (specimen)
Ex.W24	28.10.2006	Complaint filed by the petitioner union before the Asstt. Labour Commissioner (Central), Chennai
Ex.W25	-	Attendance card issued by third respondent in ID No. 2 of 2010 to some of the contract workers during 2006
Ex.W26	27.11.2006	Written statement of the union before the Assistant Labour Commissioner
Ex.W27	04.12.2006	Rejoinder filed by the union before the Assistant Labour Commissioner
Ex.W28	29.01.2008	Letter from the Ministry of Labour to the Secretary to Government of India
Ex.W29	15.07.2008	Pamphlets printed and issued by the Union raising various issues against the Management
Ex.W30	09.06.2009	Letter from the Ministry of Labour and Employment to the petitioner union
Ex.W31	19.06.2009	Letter from the petitioner union to the Labour Enforcement Officer (Central), Coimbatore
Ex.W32	-	Certified standing orders of the 1 st Respondent pertaining to its factory in English with Tamil translation
Ex.W33	-	Certified standing orders of the 1 st Respondent pertaining to its mines in English with Tamil translation
Ex.W34	01.09.2006	Fresh Certificate of Incorporation consequent upon change of name = "The Associated Cement Companies Ltd." – Changed to "ACC Limited".
Ex.W35	2006/2012	Certificate of Registration under C.L. (R&A) Act – enclosing – Annexure "J" – name of contractors in 2006, Annexure "K" – name of Contractors in 2007, and Annexure "O" – name of contractors in 2012
Ex.W36	-	License issued to Contractors referred in the claim (ID 1/10) –
	(i)	Bharati Builders and Constructions – 2004 to ending 09.02.2013
	(ii)	Siva Industries and Engineering works – 2004 to ending 09.02.2012
	(iii)	Latha Engineers and Construction – 2004 to ending 09.12.2013
	(iv)	Fathima – 2008 to ending 23.01.2013
	(v)	Banu Engineering Contractor – 2004 to 09.02.2012

		(vi)	Ms. Chitra – 2005 to July 2012
Ex.W37	-		Specimen Agreement between ACC Ltd. and
		(i)	Bharati Builders and Constructions – for 2006 and 2010
		(ii)	Siva Industries and Engineering Works – 2006 & 2010
		(iii)	Latha Engineers and Construction – 2006 & 2010
		(iv)	Mrs. Fathima – 2008 and 2010
		(v)	Banu Engineering Contractor – 2006 and 2010
		(vi)	Ms. Chitra – 2008 and 2010
Ex.W38	-		Layout including Colony School, Hospital, Mines etc. (45-62 Acres) Factory 26.78
Ex.W39	-		Notice of completion of construction – Alfa Engineering Constructions - Form VI B – UR-CL (R&A) Act
Ex.W40	-		Notice of completion of contract work – Safe Line Electricals. Form VI B – UR-CL (R&A) Act.
Ex.W41	-		Specimen Work Order/Purchaser Order and Bills
		i)	Bharathi Builders & Constructions – for 2006 and 2010
		ii)	Siva Industries and Engineering Works – for 2006 and 2011
		iii)	Latha Engineers and Construction – for 2006 and 2009
		iv)	Mrs. Fathima – 2009 and 2011
		v)	Banu Engineering Contractor – 2006, 2009
		vi)	Ms. Chitra – 2009 and 2010
Ex.W42	-		Specimen T.D.S. Certificates issued to :-
		i)	Bharati Builders & Constructions
		ii)	Siva Industries and Engineering Works
		iii)	Latha Engineers and Construction
		iv)	Mrs. Fathima
		v)	Banu Engineering Contractor
		vi)	Ms. Chitra
Ex.W43	-		In-charge of correspondence between the First Respondent and Central Government Authorities
(a)	23.05.2006		Letter from ACC Ltd., to Dy. Chief Labour Commissioner (C)
(b)	22.11.2006		Letter from ACC Ltd. to Asstt. Labour Commissioner (Central)
(c)	22.11.2006		Joint letter from Alpha Engineering Construction, Banu Engineering Contractor and P. Nagarajan, Contractor – to Asstt. Labour Commissioner (Central), Chennai
(d)	29.01.2008		Report on failure of conciliation issued by Asstt. Labour Commissioner (Central), Chennai
(e)	24.07.2008		Letter from ACC Ltd. to Asstt. Labour Commissioner (Central), Chennai
(f)	04.12.2008		Letter from ACC Limited to Asstt. Labour Commissioner (Central)
Ex.W44	15.04.2008		Letter from Government of India, Ministry of Labour, New Delhi to ACC Limited and Coimbatore Cement Workers Union
Ex.W45	27.10.2006		Minutes of Conciliation Proceedings – during Joint discussion before Asstt. Labour Commissioner (Central), Chennai

Ex.W46	01.03.2012	Statement of First Respondent detailing the name of contractors (In ID 1/2010) and their number of workmen posted to work at 1 st Respondent's premises and – enclosing the name of persons as on date working at 1 st Respondent's premises as furnished by respective Contractor in ID 1/2010
Ex.W47	-	Copy of Certificate of Registration of some Cement Factories in Tamil Nadu – i.e. a) Chettinad Cement Corporation b) India Cements c) Madras Cements d) Tamil Nadu Cements e) Ultratech Cements Ltd.
Ex.W48	-	Gagal Cement Works, Himachal Pradesh : RC
	01.10.1997	Claim Petition
	26.01.1996	Charter of Demands
	01.12.1998	Written Statement of the First Respondent filed before Labour Court, Shimla
	26.05.2003	Written Statement of the 1 st Respondent filed before Labour Court, Shimla
Ex.W49	31.05.2003	Award of Labour Court, Simla in Reference No. 49/1997
Ex.W50	18.07.2007	Gazette Copy of Award of Sri G. Ramanujam and Sri P. Nevatia – Arbitrators in the ID between employees in relation to Cement Manufacturers' Association and their workmen represented by INC and Allied Workers' Federation
Ex.W51	Jan.2006 To Dec.2009	Muster Roll in Form-XVI for the period from January 2006 to December 2009 of M/s. Bhanu Engineering (Respondent-3)
Ex.W52	Jan. 2006 To Dec.2009	Register of ages in Form-XVII for the period from January, 2006 to December 2009 of M/s. Bhanu Engineering (Respondent-3)
Ex.W53	Jan. 2006 To Dec.2009	Muster roll in Form-XVI for the period from January 2006 to December 2009 of M/s. Bharathi Builders and Constructions (Respondent-5)
Ex.W54	26.12.2005 To 30.07.2007 Oct. 2007 To Oct. 2010	Register of Wages in Form-XVII for the period from 26.12.2005 to 30.07.2007 and from October 2007 to October 2010 of M/s. Bharathi Builders and Constructions (Respondent-5)
Ex.W55	Jan. 2006 To Dec. 2011	Muster Roll in form-XVI from January 2006 to December 2011 in respect of M/s. Siva Industrial & Engineering Works (Respondent-6)
Ex.W56	Jan.2006 To Aug.2009	Register of Wages in Form XVII from January 2006 to August 2009 in respect of M/s. Siva Industrial and Engg. Works (Respondent-6)
Ex.W57	Aug.2009 To Dec.2011	Register of Wages in Form-XVII from August 2009 to Dec. 2011 in respect of M/s. Siva Industrial & Engg. Works (Respondent-6)
Ex.W58	Feb.2006 To Dec.2011	Muster Roll in Form XVI of M/s. Latha Engineering Constructions (Respondent-7) from February 2006 to December 2011
Ex.W59	Dec. 2005 To Dec. 2011	Wages Register in Form-XVII for the period from Dec. 2005 to December 2011 of M/s. Latha Engg. Constructions (Respondent-7)

Ex.W60	Oct.2005 To April 2011	Muster Roll in form XVI for the period from Oct. 2005 to April 2011 of M/s. Fathima Contractors (Respondent-8)
Ex.W61	Oct.2005 To April 2011	Wages Register in Form XVII for the period from October 2005 to April 2011 of M/s. Fathima Contractors (Respondent-8)
Ex.W62	Jan.2006 To Dec. 2011	Muster Roll in Form-XVI for the period from January 2006 to December 2011 in respect of M/s. T. Chitra Contractors (Respondent-10)
Ex.W63	June 2005 To April 2008	Register of Wages in Form XVII for the period from June 2005 to April 2008 belonging to M/s. T. Chitra Contractor (Respondent-10)
Ex.W64	01.05.2008 To Dec.2011	Register of wages in form XVII for the period from May 2008 to December 2011 belonging to M/s. Chitra Contractor (Respondent-10)
Ex.W65	01.05.2005 To 25.06.2005	Wage Register
Ex.W66	01.07.2005 To 31.08.2005	Wage Register
Ex.W67	Sept 2005 To Jan. 2006	Wage Register
Ex.W68	Feb.2006 To Oct. 2006	Wage Register
Ex.W69	Sept.2006 To Oct. 2006	Wage Register
Ex.W70	01.02.2006 To 28.02.2006	Wage slip
Ex.W71	26.03.2001	License issued to M/s. Dutta Enterprises
Ex.W72	18.10.2002	License issued to M/s. Dutta Enterprises
Ex.W73	22.01.2004	License issued to M/s. Dutta Enterprises
Ex.W74	23.02.2005	Renewal of license
Ex.W75	-	Forms and Register
Ex.W76	-	Certificate of deduction of tax
Ex.W77	-	Contract Agreement showing details of jobs
Ex.W78	-	Copy of the resolution dated 5.011.2000 concerning the cause of contract labourers

On the Management's side of ID 1/2010

Ex.No.	Date	Description
Ext.M1	01.06.2003	Declaration filed by Coimbatore Cement Workers' Union before the National Industrial Tribunal at Mumbai stating that they fully and finally settled the disputes with ACC Limited at its viz. Wadi, Gagal, Chanda and Madukkarai Plants

Ext.M2	2006	Certificate of Registration under C.L. (R&A) Act – enclosing –Annexure “J” – name of Contractors in 2006
Ext.M3	-	License issued to M/s. Dutta Enterprises – 11.12.2000, 26.03.2001 and 22.01.2004
Ext.M4	-	Specimen Agreement between ACC Ltd. and M/s. Dutta Enterprises – 2004 and 2005
Ext.M5	08.10.2006	Letter from M/s. Dutta Enterprises to ACC Ltd., seeking ACC’s consent to mobilize their labours
Ext.M6	09.10.2006	Letter No. MK/HRD/062/1792 of ACC Limited addressed to M/s. Dutta Enterprises regarding ACC’s inability to mobilize the labours of M/s. Dutta Enterprises from ACC Madukkarai Works site
Ext.M7	14.10.2006	Letter from M/s. Dutta Enterprises to ACC Ltd. informing their decision to mobilize their labours and shifting them from ACC Madukkarai Works site to their various other sites
Ext.M8	16.10.2006	Letter from M/s. Dutta Enterprises to ACC Ltd., informing their inability to continue the jobs awarded to them
Ext.M9	06.11.2006	Form VI-A Notice of Completion submitted to M/s. Dutta Enterprises to the Assistant Labour Commissioner (Central), Chennai
Ext.M10	06.11.2006	Notice of completion of contract work – M/s. Dutta Enterprises –Form VI-B
Ext.M11	-	Specimen Work Orders placed on M/s. Dutta Enterprises – 2005 & 2006
Ext.M12	2006	Complaint filed under Section-33A of ID Act, 1947 by the petitioner
Ext.M13	08.12.2006	Letter No. MK/HRD/062/2313 of ACC Ltd. to the Assistant Labour Commissioner (Central), Chennai – giving their comments against the complaint filed under Section-33A by the petitioner
Ext.M14	10.09.2007	Letter from the Assistant Labour Commissioner (Central), Chennai fixing the joint discussions/conciliation proceedings on 20.09.2007
Ext.M15	20.09.2007	Joint discussions between ACC Ltd., & Petitioner Union before the Assistant Labour Commissioner (Central), Chennai –discussions adjourned
Ext.M16	19.12.2007	Letter from the Assistant Labour Commissioner (Central), Chennai fixing the joint discussions/conciliation proceedings on 24.12.2007
Ext.M17	24.12.2007	Joint discussions between ACC Ltd. & Petitioner Union before the Assistant Labour Commissioner (Central), Chennai
Ext.M18	29.01.2008	Letter from the Assistant Labour Commissioner (Central, Chennai to the Secretary to Govt. of India, Ministry of Labour, New Delhi
Ext.M19	20.09.1971	Certificate of Registration – issued by ALC (C), Madras u/r C.L.R. & Abolition Act
Ext.M20	19.10.2004	Charter of Demands from Coimbatore Cement Worker’s Union, Madukkarai to ACC Ltd., Madukkarai
Ext.M21	08.04.2006	Letter from Coimbatore Cement Workers’ Union to RLC ©, Chennai
Ext.M22	24.02.2000	Charter of Demands by Coimbatore Cement Worker’s Union, AITUC, Madukkarai 641015
Ext.M23	-	Charter of Demands by AITUC (Respondent Union) –Settlement to govern from 01.04.2014 to 31.03.2017
Ext.M24	28.08.2015	Manufacturing units – including INTUC – Respondent Union – at Madukkarai ACC Ltd. – adopting the settlement dated 29.07.2015 between CMA & Federation of Unions - 01.04.2014 to 31.03.2016
Ext.M25	19.10.2004	Charter of New Demands by Coimbatore Cement Workers’ Union – Madukkarai – addressed to ACC, Madukkarai

Ext.M26	15.02.2010	Charter of Demands of the Respondent Union
Ext.M27	08.06.2011	12(3) Settlement

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1701.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इण्डियन ऑयल कार्पोरेशन लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, चैन्नई के पंचाट (संदर्भ संख्या 23/2017) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.07.2017 को प्राप्त हुआ था।

[सं. एल-30012/38/2016-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 13th July, 2017

S.O. 1701.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 23/2017) of the Central Government Industrial Tribunal/Labour Court, Chennai now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s.. Indian Oil Corporation Ltd. and other and their workman, which was received by the Central Government on 11.07.2017.

[No. L-30012/38/2016-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, CHENNAI

Friday, the 23rd June, 2017

Present : K.P. PRASANNA KUMARI, Presiding Officer

Industrial Dispute No. 23/2017

(In the matter of the dispute for adjudication under clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947(14 of 1947), between the Management of R. Malarvannan, Contractor and Another)

BETWEEN :

Smt. B. Nagamma : 1st Party/Petitioner

AND

1. Sri R. Malarvannan : 2nd Party/1st Respondent
Engineering Contractor
2. The Sr. Terminal Manager : 2nd Party/2nd Respondent
M/s. Indian Oil Corporation Ltd.
Foreshore Terminal (FST), Royapuram
Chennai-600013

Appearance :

For the 1st Party/Petitioner : Set Ex-parte
For the 2nd Party/1st Respondent : M/s. Cirajuneisa S. Alam, S. Hemanand
For the 2nd Party/2nd Respondent : -

AWARD

The Central Government, Ministry of Labour & Employment, vide its Order No. L-30012/38/2016-IR (M) dated 31.03.2017 referred the following Industrial Dispute to this Tribunal for adjudication.

The schedule mentioned in that order is :

“Whether the action of Sri Malarvannan, Contractor of Indian Oil Corporation Ltd., Foreshore Terminal (FST) in terminating the services of B. Nagamma, worker engaged by him is justified? If not, to what relief Smt. Nagamma is entitled to?”

2. On receipt of the Industrial Dispute this Tribunal has numbered it as ID 23/2017 and issued notices to both sides. The case has come up for hearing on receipt of notice by both sides, on 27.04.2017. The petitioner has not appeared on this day. There being no sitting the case has been postponed to 16.05.2017. On this date Vakalat was filed for the First Respondent. However, the petitioner and also the Second Respondent were absent on this day also. The case has again been postponed to 06.06.2017 and then to this date. The petitioner has not come forward so far to proceed with the case. She seems to be not interested in pursuing the matter. In the absence of any material the reference could not be adjudicated.

Therefore the reference is answered against the petitioner. An Award is passed accordingly.

(Dictated to the P.A., transcribed and typed by him, corrected and pronounced by me in the open court on this the 23rd June, 2017)

K. P. PRASANNA KUMARI, Presiding Officer

Witnesses Examined:

For the 1 st Party/Petitioner	:	None
For the 2 nd Party/1 st & 2 nd Management	:	None

Documents Marked :**On the petitioner's side**

Ex.No.	Date	Description
	Nil	

On the Management's side

Ex.No.	Date	Description
	Nil	

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1702.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स केन्द्रीय भण्डारण निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, भुवनेश्वर के पंचाट (संदर्भ संख्या 05/2002) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.07.2017 को प्राप्त हुआ था।

[सं. एल-42012/1/2001-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 13th July, 2017

S.O. 1702.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/2002) of the Central Government Industrial Tribunal/Labour Court, Bhubaneswar now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s.. Central Warehousing Corporation and their workman, which was received by the Central Government on 11.07.2017.

[No. L-42012/1/2001-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT BHUBANESWAR****Present :**

Shri B.C. Rath,
Presiding Officer, C.G.I.T.-cum-Labour
Court, Bhubaneswar.

INDUSTRIAL DISPUTE CASE NO. 05/2002

Date of Passing Award – 14th June, 2017

Between:

1. The Manager,
Central Ware Housing Corporation,
At./Po./Dist. - Bargarh.
2. The Regional Manager,
Central Ware Housing Corporation,
Bhubaneswar

...1st Party-Managements

(And)

Shri Srikar Bibhar,
At. Master Tikra, Gobindapali,
P.O. & Dist. Bargarh

...2nd Party-Workman.

Appearances :

M/s.. P.N. Mohapatra, Advocate ... For the 1st Party-Managements
M/s.. Subrat Mishra, Advocate ... For the 2nd Party-Workman

ORDER

The Government of India, Ministry of Labour has referred a dispute between Shri Srikar Bibhar in one side and Central Ware-housing Corporation with other side with the schedule “whether the action of the management of Central Ware Housing Corporation, Bargarh removing of Shri Shankar Bibhar, S/o. Shri Naba Bibhar, at. Banjipadar, Po. Rickdul, Dist. Bolangir, from the job who are employed since last 12 years continuously through different contractors in the same nature of job is justified? If not, what relief the workman is entitled to?” in exercising its jurisdiction under section 10 of the I.D. Act, 1947 (hereinafter referred to as the “Act”) vide letter No. L-42012/1/2001 (IR(M) dated 09.01.2002 for its adjudication by this Tribunal:-

2. The 2nd party disputant has filed his statement of claim contending that he was working as a labour under direct supervision and control of the Management No. 1. He was receiving his wages on month to month basis basing upon the quantum of material lifted by him i.e. loaded or unloaded by him in the premises of the go-down of the Managements at Bargarh. It is the claim of the 2nd party-disputant that he and other labourers were shown engaged through contractors only in paper transaction only. In reality they were working under the direction of the Officers of the Management No. 1 and also paid by them. It has been alleged that in December, 1998 the disputant and others made a representation before the Managements for regularization of their job and payment of their wages directly by the Managements. When such demand was put-forth by the disputant, the Management No. 1 terminated his service and registered a false criminal case against him and others as a result of which the disputant was taken to custody. After his release on bail when he came to join in his loading and unloading work, the Management No. 1 did not allow him to resume his duty. As such a dispute was raised before the labour machinery and the conciliation proceeding having been failed, a reference is made for its adjudication as stated earlier.

3. In a common written statement the Managements have contested the claim taking a stand that the Corporate Office of the Managements is situated at New Delhi and different ware-houses have been established and maintained in different places through-out the country. The function of the ware-houses is governed by the provisions of the ware-housing Corporation Act, 1962 and the regulations framed there-under. Depositors like FCI, Hindustan Liver etc. are utilizing the go-down space on payment of the prescribed charges. The corporation usually carry out the handling and transportation operations for storing the materials of depositors by appointing contractors for a specified period as and when required by the depositor. The charges of handling and transport carried through the contractors are being reimbursed by the depositors. The contractors entrusted to execute the work of handling and transportation engaged their own labourers for such handling and transportation work. The Managements never engage any labour for such

work or pay the wages directly to such labourers engaged for handling and transportation work. Therefore, question does not arise for engaging the disputant by the Management No. 1 and paying him wages directly or through any contractor. No relationship of “employer and employee” was ever existing between the Managements and the disputant. In the above premises he is not a “workman” under the Management as defined under section 2(s) of the Act. It has been also pleaded that since the work of handling and transportation was given to different contractors in between the period 1987 to 1994, question does not arise on the part of the Management No. 1 either for engaging the disputant as a labour during the above period or terminating his service during the said period. Hence, prayer has been made for rejection of the statement of claim of the 2nd party-disputant.

4. On the aforesaid pleadings of the parties the following issues have been settled for the adjudication of the dispute:-

ISSUES

1. Whether the disputant is a workman under the provisions of the Industrial Disputes Act?
2. Whether the action of the Management of Central Ware Housing Corporation, Bargarh removing the disputant from the job who was employed since 12 years continuously through different contractors in the same nature of job is justified?
3. If not, what relief the workman is entitled to?

5. Two witnesses including the disputant have been examined and reliance has been placed on certain documents like report of the Manager, C.W.C. Bargarh to Sub-Divisional Magistrate Bargarh, report of the OIC, Bargarh No. 29, dated 4.2.1999 submitted to Executive Magistrate, Bargarh, Order passed by the Executive Magistrate, Bargarh in C.M.C. No. 39/1999, order dated 3.2.1999 passed by the Executive Magistrate, Bargarh in C.M.C. No. 33/2/99, along with the bond of 34 agitators and copy of office order No. 53/Res. Dated 15.1.1997 of Collectorate, Ganjam, Chatrapur marked as (Ext.-1 to Ext.-5) by the 2nd party-disputant to establish the claim. On the other hand the Managements have also examined two of its officers and exhibited copies of some agreements executed with different contractors and work orders issued to them to nullify the claim of the 2nd party-Union.

6. For the sake of convenience all the issues are taken for consideration simultaneously as they are inter-related to each other.

In view of the stand taken by the rival parties it is to be seen whether the disputant is a “workman” as defined under section 2(s) of the I.D. Act under the Management No. 1. The essential condition of a person being “workman” within the terms of this definition is that he should be employed to do the work in the said Management i.e. industry. In the other words he was employed by the employer and there should be the relationship of “employer and employee” or “master and servant” between him and the Management No. 1. Unless the above factors are established it cannot be said that the disputant is a “workman” under the Management No. 1 within the definition of the term “workman” as defined under the Act. As a settled principles the initial burden lies on the 2nd party-disputant to establish the relationship of “employer and employee” after which the burden shifts to the Opp. Party-Management to disprove the claim of the workman. Coming to the case at hand it is seen that it has been pleaded and stated by the disputant workman that he and other labourers were paid wages directly by the Manager of the Management No. 1 though it was being shown that their wages were paid through contractor. It has also been asserted by the disputant and his other witness that they were directly working under the direction and supervision of the Manager of the Management No. 1. But, not a single scrap of paper relating to their engagement or payment of wages by the Management No. 1 is filed in support of their oral testimony. No step seems to have been taken by the 2nd party-disputant to call for any muster roll or wage slips from the establishment of the Managements to prove the above assertions. On the other hand mere perusal of the claim statement and the oral testimonies of W.W.-1 and W.W.-2 gives an impression that their wages were paid through the contractors during the period of their engagement. No-where it has been challenged or asserted that no agreement was executed between the Managements and the contractors for such work of handling and transportation in the ware-houses or such agreements were sham and camouflage to deprive the disputant and other labourers from availing protections extended to a “workman” under the I.D. Act and other service benefits. Moreover, it is averred and stated by the 2nd party-disputant that he was being shown engaged as a labour by different contractors during the period of 1987 to 1994. Be that as it may, a heavy burden lies on the disputant workman to establish the relationship of “employer and employee” between him and the Management. Law is well settled that such relationship can be inferred from the facts as to who makes payment towards the wages/remuneration of the disputant and under whose control and supervision the disputant was discharging his duty.

7. On a close reading of the evidence advanced by the 2nd party-disputant it is seen that except oral testimony of W.W.-1 and W.W.-2 there is no other document by which the above two factors can be established in favour of the disputant since the documents filed by the 2nd party-disputant are no way relevant towards engagement or payment of wage by the Management. All the documents related to orders of Executive Courts by which the disputant workman

was directed to execute certain bonds. On the other hand, the disputant has himself claimed that he and others were demanding for regularization of their service directly by the Management. In the case of **Krishna Bhagya Jala Nigam Ltd., -versus- Mohammed Rafi reported in Civil Appeal No. 2895 of 2009** the Hon'ble Apex Court have made it clear that mere affidavits or self serving statements made by the claimant/workman will not suffice in the matter of discharge or the burden placed by law on the workman to prove that he had worked for 240 days in a given year and that mere non-production of muster rolls per say without any plea of suppression by the claimant workman will not be the ground for the Tribunal to draw an adverse inference against the Management. In the above back-drops it can safely be said that the 2nd party-disputant has miserably failed to establish the relationship of "employer and employee" or the claim that the disputant workman worked continuously and uninterruptedly for more than 240 days preceding to the refusal of employment to him. On the other hand, the oral evidence of Management witnesses coupled with the documents i.e. the agreements executed between the contractors and the Management No. 1 and the work orders issued in favour of different contractors go to indicate that the work of handling and transportation of the ware-house of the Management No. 1 was entrusted to different contractors in between 1987 to 1994 and the contractors were paid different amounts to execute such handling and transportation. There seems no opportunity on the part of the Management to pay any wage directly or through the contractor to the disputant workman and other labourers. In that view of the matter neither it can be said that the disputant is a "workman" of the Management as defined in the Act nor it can be said any relationship of "employer and employee" was existing between them during the relevant period. Hence, it is not believable that the disputant workman was ever engaged by the Management No. 1 or he was refused employment by him during the above period. For the analysis made above no relief can be extended to the disputant workman.

8. The reference is answered accordingly.

Dictated & Corrected by me.

B. C. RATH, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1703.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इण्डियन ऑयल कार्पोरेशन लिमिटेड के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 125/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.07.2017 को प्राप्त हुआ था।

[सं. एल-30012/29/2014-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 13th July, 2017

S.O. 1703.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 125/2014) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s.. Indian Oil Corporation Limited and their workman, which was received by the Central Government on 11.07.2017.

[No. L-30012/29/2014-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOR COURT, / LOK ADALAT, KANPUR.

Industrial Dispute No. 125 of 2014

Between :

Shri Rajeev Singh S/o Hakim Singh
Village Jhandipur,
Post farah,
Distt. Mathura(UP)
Mathura

And

The Executive Director,
Indian Oil Corp Ltd,
Mathura Refinery,
Mathura-281005

AWARD

1. Central Government, Mol, vide notification No.L-30012/29/2014-IR (M) dated 29.10.2014, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Indian Oil Corporation Ltd Mathura Refinery, Mathura, M/s. Manish Contractor, Mathura in terminating the services of Sh. Rajveer Singh s/o Sh. Hakim Singh workman w.e.f. April 2010 is just fair & legal? If not what relief the workman concerned is entitled to?
3. In the instant case a reference was referred to Central Government Industrial Tribunal cum Labor Court, Kanpur, whereupon notice to the claimant was issued under registered post by CGIT Kanpur for filing his claim in the case.
4. On 27.06.2017, when the case was taken up neither the worker turned up nor filed his claim statement despite availing of sufficient opportunities. Therefore, it appears that the worker is not interested in prosecuting his claim before this tribunal. As such having no option left with the tribunal except to give an award in the case against the worker for want of pleadings and proof.
5. For the reasons given above, award is passed against the worker holding that the worker is not entitled to any relief pursuant to the present reference order for want of pleadings and proof.
6. Reference is answered accordingly against the worker.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1704.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स सेन्ट्रल यू.पी. गैस लिमिटेड एवं अन्य के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय, कानपुर के पंचाट (संदर्भ संख्या 35/2016) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.07.2017 को प्राप्त हुआ था।

[सं. एल-30012/29/2016-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 13th July, 2017

S.O. 1704.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 35/2016) of the Central Government Industrial Tribunal/Labour Court, Kanpur now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s.. Central U.P. Gas Limited and other and their workman, which was received by the Central Government on 11.07.2017.

[No. L-30012/29/2016-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE SRI SHUBHENDRA KUMAR, HJS, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOR COURT, / LOK ADALAT, KANPUR.

Industrial Dispute No. 35 of 2016

Between :

Shri Pankaj Kumar
B-91, Barra-7,
Kanpur (U.P.)-208027

And

The Chairman-cum-Managing Director,
M/s. Central U.P. Gas Limited,
U.P.S.I.D.C. Complex, A-1/4,
7th Floor, Lakhanpur,
Kanpur(U.P.)-208024

The Director,
M/s. Sigma Staffing Solutions Pvt. Ltd.,
2nd Floor, 112/1-C, Benajhabar Road,
Swaroop Nagar,
Kanpur(U.P.)-208002

AWARD

1. Central Government, Mol, vide notification No.L-30012/29/2016-IR (M) dated 01.09.2016, has referred the following dispute for adjudication to this tribunal.
2. Whether the action of the management of Central U.P. Gas Limited, Kanpur/M/s. Sigma Staffing Solutions Pvt. Ltd., Kanpur in terminating the services of Shri Pankaj Kumar workman with effect from 13.07.2015 is just fair & legal? If not, to what relief the workman concerned is entitled to?
3. After receipt of reference from Government of India and Ministry of Labor and Employment New Delhi registered notices were issued to the parties.
4. Both the parties were appeared on 21-10-16, but worker has not filed any claim petition. On Next date 29-11-16 worker did not filed any claim statement he was given one more opportunity to file claim statement by 31-1-2017. But he failed to appear on 31-1-17; thereafter next date 28-2-17 was fixed. As worker was not ready to file claim statement his statement was recorded wherein he has stated that he was directed to file claim statement, but he has not filed any claim nor he is willing to file claim statement and thereafter one more date 11-5-17 was fixed and worker did not file any claim statement. Therefore he was given last opportunity to file claim statement by 4-7-17 but he did not filed any claim on 4-7-17. It appears from the record that worker was given sufficient opportunity to file claim in support of his case, but he has not filed any claim statement nor he is willing to file any claim statement.
5. Under this circumstance the reference is bound to be decided against the worker want of pleadings and proof
6. Award is therefore is passed against the worker.

SHUBHENDRA KUMAR, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1705.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स ई. एस.आई.सी. अस्पताल एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-2, नई दिल्ली के पंचाट (संदर्भ संख्या 36/2010) को प्रकाशित करती है, जो केन्द्रीय सरकार को 11.07.2017 को प्राप्त हुआ था।

[सं. एल-15011/2/2010-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 13th July, 2017

S.O. 1705.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 36/2010) of the Central Government Industrial Tribunal/Labour Court-2, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s.. ESIC Hospital and other and their workman, which was received by the Central Government on 11.07.2017.

[No. L-15011/2/2010-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**BEFORE SH. HARBANSH KUMAR SAXENA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO-II, KARKARDOOMA COURT COMPLEX, DELHI-110032.****I.D. No. 36/2010**

The General Secretary,
Central Labour Union,
Smt. Sonia Gandhi Camp, B-254,
Narayana Industrial, Area Phase-1,
New Delhi – 110028

...Workman

Versus

1. The Medical Superintendent,
ESIC Hospital, Rohini Sector – 15,
New Delhi
2. Vayudoot Security Service Pvt. Ltd.,
C/o ESIC Hospital, Sector – 15, Rohini,
New Delhi

...Management

AWARD

The Central Government in the Ministry of Labour, New Delhi- 110001 has referred the following dispute for industrial adjudication to this Tribunal vide its notification No. L-15011/2/2010-IR(M) Dated 19.10.2010.

“Whether the Action of the management of M/s. Vayudoot Security Services Pvt. Ltd., a contractor of ESIC Hospital in terminating the services of 29 workmen (Lis enclosed) w.e.f. 13.06.2009 is just and legal? To what relief the workmen are entitled and from which date?”

On 01.11.2010 reference was received in this Tribunal. Which was registered as ID.No. 36/2010 and claimant/workman was called upon to file claim statement within fifteen days from date of service of notice. Which was required to be accompanied with relevant documents and list of witnesses.

After service of notice workman/claimant filed claim statement on 25.02.2011. Through prayer in claiM/s.tatement workmen claimed their reinstatement alongwith full back wages and other dues alongwith expenses of the present case.

Against claiM/s.tatement management No. 1 filed its written statement on 15.04.2011. Wherein he prayed as follow:-

“In view of the submissions made above it sis submitted that prayer as made herein in the petition under reply are liable to be rejected and the present petition is liable to be dismissed with exemplary cost. It is therefore most respectfully prayed that this Hon’ble Tribunal may be pleased to:

- (a) Dismiss the present petition qua the answeeing respondent; and
- (b) Pass any such order as this Hon’ble Tribunal may deem fit in the facts and circumstances of the present case.”

On 30.05.2011 management No. 2 filed its written statement against claiM/s.tatement of workmen. Wherein he prayed as follow:-

“In view of the above said submission, its is submitted that prayer of the claim petition are liable to be rejected and the present claim petition is liable to be dismissed with exemplary cost against the answering respondent.

Pass any other order as this Hon’ble court may deem fit and proper in the facts and circumstances of the present case.”

Workman filed rejoinder against written statement of management No.1 and management No.2. Wherein he prayed as follow:-

“In view of the above facts and circumstances, the written statement filed by the respondent No.1 and respondent No.2 may kindly be dismissed with heavy cost, in favour of the workmen and the claim filed by the workmen may kindly be allowed, in the interest of justice.

Any other or further order, which this Hon’ble court may deems fit and proper, may kindly be passed, in favour of the workmen and against the respondents, in the interest of justice.

My Ld. Predecessor had not framed any issue but he proceeded to decide this ID case on the basis of questions of determination mentioned in the schedule of reference.

There were 29 workmen whose case have been referred to this Tribunal for adjudication.

Out of 29 workmen following 13 workmen filed their affidavits in their evidence. Which were tendered by them. They were corss-examined by Ld. A/R for the management:-

WW1 – Sh. Om Prakash

WW2 – Sh. Chand Ram

WW3 – Sh. Mahar Singh

WW4 – Sh. Sewa Ram

WW5 – Sh. Nanak Chand

WW6 – Sh. Rohtesh Kumar

WW7 – Sh. Ranbir Singh

WW8 – Sh. Jagdish Chand

WW9 – Sh. Jeet Singh

WW10 – Sh. Pratap Singh

WW11 – Sh. Jai Narain

WW12 – Sh. Ramvir

WW13 – Sh. Pale Ram

Out of the aforesaid 29 workmen following 16 workmen have neither filed their affidavits in their evidence nor they were examined on behalf of workmen:-

- | | |
|------------------|--------------------------------|
| 1. C. R. Sehrao | 9. Ramnath Yogi |
| 2. Bhim Chand | 10. Harish Bhath |
| 3. Chanrda Singh | 11. Mahaveer Singh |
| 4. H. C. Joshi | 12. Satyanand |
| 5. Shyam Sunder | 13. Chandra Pal |
| 6. Ram Singh | 14. Satya Prakash |
| 7. Banwali Lal | 15. Mahendra Singh |
| 8. Ikawal Singh | 16. Om Prakash S/o Chhoula Ram |

Management No.2 examined Sh. Pati Ram as MW1 who was cross-examined by Ld. A/R for workmen and his corss-examination was concluded. There after Ld. A/R for management No.2 filed written arguments.

Written arguments of management No.2 as follows:-

1. That the claim petition of the workmen is based upon the concocted story and do not have any relevance with the truth. That out of 29 workmen who have filed the claim before this Hon'ble Court, only 13 workmen have filed their evidence by way of affidavit and examined.
2. That at the time of working with the management no-2, all the workmen were getting all benefits as per labour law and wages as a proved by the Director General of resettlement Ministry of Defence, Govt. of India.
3. That the workmen were appointed as security guard/gunman by the respondentno-2 for the site of management no-1 on temporary basis and that contract with management no-1 got expired on 11.09.20011.
4. That the workmen were involved in anti-establishment activities and misconduct of duties. They verbally want so many times and the management no-1 made complaints to management no-2 in this regard of their of their behaviour, there after management no-2 made a written complaint against the workmen in P.S Prashant Vihar Rohini Delhi, in the public interest and as per

agreement with the management no-1 that if anybody made nuisance and create negligence in duty/indiscipline should be removed immediately from services and to maintain the reputation and goodwill, management no-2 was no other option except to replace them.

5. That many workmen clearly stated that they don't need the job from the establishment and many workmen mentioned in their affidavit that their age has crossed the retirement age.
6. That all the workmen are working with other agencies since then and they are not unemployed, hence the claim of the workmen is not maintainable.

In the light of contentions and counter contentions I perused the record. On the basis of which there is two group of workmen as follow:-

1. Workmen who have not filed affidavit in their evidence.
2. Workmen who have filed affidavit in their evidence.

So I am discussing their matter groupwise.

So far matter to workmen of group No.1 is concerned who have adduced no evidence in support of their case. So their claim is liable to dismissed in want of their evidence.

Now I am dealing with case of workmen of group No.2 who have filed affidavit in their evidence.

Which is to be appreciated in the light of provisions of law.

It is admitted fact that the workmen were appointed as security guard/gunman by the respondent No.2 for the site of management No.1 on temporary basis and that contract with management No.1 got expired on 11.09.2011.

They raised demand on the basis of their reference wherein following question of determination mentioned in schedule of reference. Which were sent to this Tribunal for adjudication:-

“Whether the Action of the management of M/s. Vayudoot Security Services Pvt. Ltd., a contractor of ESIC Hospital in terminating the services of 29 workmen (Lis enclosed) w.e.f. 13.06.2009 is just and legal? To what relief the workmen are entitled and from which date?”

It is admitted fact that management No.2 was contractor of ESI Hospital who provided manpower of 29 workmen to ESI Hospital management No.1. It is apparent on record that neither of the workmen made complaint of a contractor to ESI Hospital management No.1 prior to raising their dispute before conciliation officer.

Moreover services of workmen have been replaced by management no2 because they were involved in anti-establishment activities and misconduct of duties. They verbally warned so many times and the management no-1 made complaints to management no-2 in this regard of their behaviour, there after management no-2 made a written complaint against the workmen in P.S Prashant Vihar Rohini Delhi, in the public interest and as per agreement with the management no-1 that if anybody made nuisance and create negligence in duty/indiscipline should be removed immediately from services and to maintain the reputation and goodwill, management no-2 was no other option except to replace them.

In this Background following workmen are entitled to no relief:-

- | | | | |
|----------------------|------------------------|-----------------------|------------------------|
| 1 – Sh. Om Prakash, | 2 – Sh. Chand Ram, | 3 – Sh. Mahar Singh, | 4 – Sh. Sewa Ram, |
| 5 – Sh. Nanak Chand, | 6 – Sh. Rohtesh Kumar, | 7 – Sh. Ranbir Singh, | 8 – Sh. Jagdish Chand, |
| 9 – Sh. Jeet Singh, | 10 – Sh. Pratap Singh, | 11 – Sh. Jai Narain, | 12 – Sh. Ramvir, |
| 13 – Sh. Pale Ram. | | | |

So far other 16 workmen are concerned they have adduced no evidence either through their affidavit or through their statement.

They are entitled to no relief in want of their evidence.

On the basis of aforesaid discussion I am of considered view that question of determination No.1 mentioned in the schedule of reference is liable to be decided against all the 29 workmen and in favour of managements

Which is accordingly decided.

So far question of determination of No. 2 of the schedule of reference is concerened. It is relating to relief to workmen. They are entitled to no relief as question of determination of No.1 mentioned in the schedule of reference has already been decided against workmen and in favour of management.

On the basis of aforesaid discussion I am of considered view that reference is liable to be decided against all the 29 workmen and in favour of managements.

Which is accordingly decided and claim statement is dismissed.

Award is accordingly passed.

Dated:-13.06.2017

HARBANSH KUMAR SAXENA, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1706.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एयरपोर्ट अथॉरिटी ऑफ इण्डिया एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मकारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 50/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.07.2017 को प्राप्त हुआ था।

[सं. एल-11012/6/2011-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 13th July, 2017

S.O. 1706.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 50/2012) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s.. Airport Authority of India and other and their workman, which was received by the Central Government on 12.07.2017.

[No. L-11012/6/2011-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 50/2012

Shri Gulshanowar Panwar,
S/o Shri Dharampal Singh,
R/o RZC-3/132, Mahavir Enclave,
PS Dabri, Palam, New Delhi

...Workman

Versus

1. The Chairman,
Airport Authority of India
A Block, Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi
2. M/s. Delhi International Airport (P) Ltd.,
Terminal III, Indira Gandhi International Airport,
New Delhi
3. The General Manager,
JAC Air Services (I) Pvt. Ltd.
International Cargo Terminal,
New Delhi – 110 037
4. M/s. Sea Hawk Pvt. Ltd.,
Indira Gandhi International Airport,
New Delhi

5. M/s. Celibi Delhi Cargo Terminal Management India Pvt. Ltd.
Air Cargo Terminal,
Indira Gandhi International Airport,
New Delhi

...Managements

AWARD

A reference was received from Ministry of Labour under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act), by this Tribunal, vide letter No.L-11012/6/2011-IR(M) dated 29.02.2012, for adjudication of an industrial dispute, terms of which are as under:

‘Whether the action of the management of Airport Authority of India/JAC Air Services (I) Pvt. Ltd. in terminating the services of Shri Gulshanower Panwar, ex-Supervisor with effect from 01.09.2010 is legal and justified? What relief the workman is entitled to?

2. Brief facts giving rise to the present reference are that Shri Gulshanower Panwar, the workman herein, was employed by Airport Authority of India on 19.10.1993 as supervisor and his last drawn wages was Rs.13,612.00 per month. He has been working with utmost sincerity, honesty. No appointment letter was issued to the workman herein despite various demands in this regard. Workman herein was working under the direct control and supervision of Airport Authority of India and Delhi International Airport (P) Ltd. through JAC Air Services (I) Pvt. Ltd. as there is an arrangement between the workers that the workers shall continue to work on same post unless he is promoted or transferred, irrespective of change of company employed by Airport Authority of India for handling of cargo at cargo terminal at the airport. Duty performed by the workmen herein is of perennial nature. Airport Authority of India through Delhi International Airport (P) Ltd. used to change the contractor for handling of cargo, but Airport Authority of India was not taking care of the various problems being faced by the workmen.

3. It is the case of the workman that a false charge sheet dated 18.05.2010 was served upon the workman herein with wrong allegations by JAC Air Services (I) Pvt. Ltd. and the workman herein gave reply to the same on 24.05.2010. Thereafter, domestic enquiry was initiated against the workman herein. Shri T.N. Venkateswaran was appointed as Enquiry Officer and Shri B.S. Kaushik, Manager(OPS) was appointed as Presenting Officer in the said enquiry. Later on dismissal order dated 01.09.2010 was passed against the workmen herein on the basis of enquiry report dated 14.07.2010. Order of dismissal has been alleged to be wrong, illegal and against principles of natural justice. It is further alleged that the M/s. JAC Air Services (I) Pvt. Ltd. has adopted a cryptic and illegal approach in deciding the various issues.

4. Managements were put to notice and separate replies have been filed by Managements No.1, 2 and 3. It is clear from reply filed by JAC Air Services (I) Pvt. Ltd. that it is engaged by Airport Authority of India to provide cargo handling services at the Import facilities at the Cargo Terminal. The answering management also engaged some employees, including the workman herein, Shri Gulshanowar Panwar for a limited period on contract basis and it was mentioned in the said letter that if the contract with Airport Authority of India is terminated for reasons whatsoever, then services of the workmen shall also be terminated without any further notice. The workman herein was a contractual employee and a complaint was received from Security Department of Delhi International Airport (P) Ltd. on 01.05.2010 that some shipments were feeded in the system before segregation report, which is not correct in view of security system in the sensitive area of the airport as well as aircraft.

5. On the basis of the said complaint, domestic enquiry was conducted and after recording statement of the loaders working with the workman herein, Shri Gulshanowar Panwar, it was established that he was involved in the matter, as a result of which order of suspension dated 07.05.2010 was issued against the workman. Thereafter, charge sheet was issued to the workman with the following charges:

- (i) That on 01.05.2010, your Shri G.S. Pawar, S/o Shri Dharam Pal Singh, Senior Supervisor (S017) deployed Shri Janak Raj, Supervisor to expedite flight checking of Flight No.3C-005 on the promise of getting illegal gratification.
- (ii) That you helped in feeding of this flight in connivance with Shri Sandeep of PC-Docs for illegal gratification.
- (iii) That you also collected money from Supervisor Shri Janak Raj for your other colleagues Shri Ranbir Singh, Assistant Manager, Shri Ajay, Senior Supervisor and Shri Mahesh Lamba, Senior Supervisor.
- (iv) That by accepting illegal gratification and inducing other colleagues above, is a case of serious misconduct on your part.

6. Shri T.N. Venkateswaran, Enquiry Officer, has given full opportunity to the workman herein. All the charges, except Charge No.(ii) and (iii) was stated to be established. In view of the report of the Enquiry Officer, workman herein was dismissed from service by the management vide a letter dated 01.09.2010, Ex.MW1/9. Management has denied the other allegations made in the statement of claim and has alleged that the enquiry is perfectly in accordance with law.

7. Reply filed by Airport Authority of India and Delhi International Airport (P) Ltd. are on same lines as filed by JAC Air Services (I) Pvt. Ltd. Moreover, it was not disputed during the course of arguments that the workman herein was directly working under the control of JAC Air Services (I) Pvt. Ltd. who has engaged him as contractual employee as supervisor.

8. Against this factual background, my learned predecessor on 26.07.2012 framed the following issues:

- (i) Whether enquiry conducted against the claimant by JAC Air Services Pvt. Ltd. is just, fair and proper?
- (ii) Whether Airport Authority of India has no privity of contract with the claimant?
- (iii) Whether M/s. Delhi International Airport (P) Ltd. has also no privity of contract with the claimant?
- (iv) Whether punishment of dismissal awarded to the claimant commensurate to his misconduct?
- (v) As in terms of reference

9. Issue No.(i) was treated as preliminary issue. Both the parties were granted opportunity to adduce evidence and the workman in support of his case, examined himself as WW1. Management, in order to prove the charges, examined Shri K.J. Rawtani as MW1. He has also proved enquiry report Ex.MW1/8 and other documents on record.

10. It is clear from evidence on record that charge sheet Ex.MW1/3 was served on the workman herein. Shri T.N. Venkateswaran was appointed as Enquiry Officer to conduct the said enquiry. His report is Ex.MW1/8. On the basis of the above report, order of dismissal Ex.MW1/9 was passed against the workman herein.

11. It is pertinent to mention here that issue No.1 pertaining to domestic enquiry was treated as preliminary issue and both parties were enjoined upon to adduce evidence on this issue. It is further clear from the record that the workman examined himself as WW1 and management to rebut the case of the workman on the preliminary issued examined Shri K.J. Rawtani as MW1. This Tribunal, vide order dated 10.03.2016, after considering evidence adduced by both the parties came to the conclusion that enquiry is unfair and against principles of natural justice. Thus the findings on the preliminary issue, i.e. whether the domestic enquiry conducted by JAC Air Services (I) Pvt. Ltd. against the workman, was answered in favour of the workman and against the management. The order passed by this Tribunal on 10.03.2016 shall form integral part of the award. Thereafter, it was noticed by the Tribunal that in fact management had not reserved any right in its pleadings, i.e. written statement, to adduce evidence on merits in case findings on the domestic enquiry goes against the management. Not only this, even an application was not filed by the management till conclusion of the findings on the domestic enquiry, i.e. on or before 10.03.2016, seeking permission to adduce evidence on merits. This Tribunal, having overall regard to the merits of the case, listed the case for evidence of the parties on the other issues for 13.03.2016. Thereafter, more time was prayed by both the parties on the said date to adduce evidence on the other issues. Shri Gulshanowar Panwar has filed his affidavit Ex.WW1/B in support of his pleadings and his statement was ultimately recorded on 21.02.2017.

Issue No.2

12. This issue, in fact, is inter-related to issue No.1 and the question of giving findings on this issue would have arisen only in case domestic enquiry conducted by the management was held to be valid. Since this Tribunal, vide a detailed order dated 10.03.2016, held the enquiry to be unfair and against the principles of natural justice, as such, issue No.2 which pertains to the proportionality of punishment pales into insignificance. Hence, issue No.2 is decided accordingly.

13. Now, the vital issue before this Tribunal is whether the action of the management of Airport Authority of India /JAC Air Services (I) Pvt. Ltd. in terminating services of Shri Gulshanowar Panwar, ex-Supervisor with effect from 01.09.2010 is legal and justified. Since this Tribunal, while rendering findings on domestic enquiry, i.e. issue No.1, has held the domestic enquiry to be unfair and against the principles of natural justice, as such action of the management in terminating services of the workman Shri Gulshanowar Panwar is neither legal nor justified under the law. Moreover, as discussed above, management has not reserved its right to adduce evidence on merits qua the domestic enquiry nor any permission was sought at the appropriate stage by the management to prove the charges of misconduct against the workman on merits. As such, this Tribunal was not in a position to show any indulgence to the management. The legal position is fairly settled in a number of authorities by the Hon'ble Apex Court and in the case of Neeta Kaplish vs.

Presiding Officer Labour Court (1999 Lab.IC 445), Hon'ble Apex Court after taking into consideration entire case law pertaining to domestic enquiry and right of adducing fresh evidence by the management held as under:

'If the Management does not lead any evidence by availing of this opportunity, it cannot raise any ground at any subsequent stage that it should have been given that opportunity, as the Tribunal, in those circumstances, would be justified in passing an award in favour of the workman. If, however, the opportunity is availed of and the evidence is adduced by the Management, the validity of the action taken by it has to be scrutinized and adjudicated upon on the basis of such fresh evidence.'

14. The other residual question is as to what relief the workman is entitled to? It was seriously urged on behalf of the workman that he is unemployed after his termination. The workman has specifically stated that he remained out of employment after his termination and had no source of income. There is no evidence on record to suggest that the workman was gainfully employed after his termination. More so, in the absence of any evidence adduced by the management to this effect, version of the workman is to be accepted.

15. Regarding claim of back wages, it has been made amply clear in *Deepali Gundu Surwase vs. Kranti Junior Adyapak Mahavidyalaya (D.Ed) and others* (2013 Lab.I.C. 4249), as under:

'Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.'

16. Yet again Hon'ble Supreme Court in *Raj Kumar Dixit Vs. Vijay Kumar Gauri Shankar* (2015) 9 SCC 345 set aside the judgement of Hon'ble High Court wherein back wages were reduced to 50% and held that High Court has exceeded its jurisdiction in setting aside the award passed by the Labour Court in awarding reinstatement to the workman to his post. It was observed that there are a number of factors which are to be taken into consideration by the Tribunal while considering the question of grant of back wages, including reinstatement. Relevant factors are, (i) whether the workman has approached the Tribunal at the earliest or there was delay in seeking reference, (ii) nature of the post, (iii) length of service as well as availability of vacancy when the question of reinstatement is being decided. Since facts of no two cases are similar, as such, the Tribunal is required to keep in mind the above circumstances before ordering grant of back wages. Legal position which emerges from the above two rulings is that where there is violation of provisions of law by the management in passing order of termination or retrenchment and evidence on record is clear that the workman was not gainfully employed or was not having any other source of income to make both ends meet during the period when the matter was being considered by the Tribunal, in such circumstances, Tribunal can always grant full back wages alongwith reinstatement.

17. As a sequel to my discussions hereinabove, it is held that the action of the management of Airport Authority of India/JAC Air Services (I) Pvt. Ltd. in terminating the services of Shri Gulshanowar Panwar, ex-Supervisor with effect from 01.09.2010 is neither legal nor justified. Hence, Shri Gulshanowar Panwar, the workman herein is entitled to reinstatement in service with the management of JAC Air Services (I) Pvt. Ltd. with full back wages. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : July 10, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1707.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एयरपोर्ट अथॉरिटी ऑफ इण्डिया एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 49/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.07.2017 को प्राप्त हुआ था।

[सं. एल-11012/5/2011-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 13th July, 2017

S.O. 1707.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 49/2012) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s.. Airport Authority of India and other and their workman, which was received by the Central Government on 12.07.2017.

[No. L-11012/5/2011-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE**IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI****ID No. 49/2012**

Shri Janak Raj S/o Shri Ganga Bishan,
R/o 256, Village and PO Surehra,
PS Jaffarpur,
New Delhi 110 043

...Workman

Versus

1. The Chairman,
Airport Authority of India
A Block, Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi
2. M/s. Delhi International Airport (P) Ltd.,
Terminal III, Indira Gandhi International Airport,
New Delhi
3. The General Manager,
JAC Air Services (I) Pvt. Ltd.
International Cargo Terminal,
New Delhi – 110 037
4. M/s. Sea Hawk Pvt. Ltd.,
Indira Gandhi International Airport,
New Delhi
5. M/s. Celibi Delhi Cargo Terminal Management India Pvt. Ltd.
Air Cargo Terminal,
Indira Gandhi International Airport,
New Delhi

...Managements

AWARD

A reference was received from Ministry of Labour under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (in short the Act), by this Tribunal, vide letter No.L-11012/5/2011-IR(M) dated 29.02.2012, for adjudication of an industrial dispute, terms of which are as under:

‘Whether the action of the management of Airport Authority of India/JAC Air Services (I) Pvt. Ltd. in terminating the services of Shri Janak Raj S/o Shri Ganga Bishan, ex-Supervisor with effect from 01.09.2010 is legal and justified? What relief the workman is entitled to?’

2. It is the case of Shri Janak Raj, the workman herein, was employed by M/s. JAC Air Services (I) Pvt. Ltd. on 01.04.2005 and his last drawn wages was Rs.10,200.00 per month and his ESI number was 6752903. He has been working with utmost sincerity, honesty. No appointment letter was issued to the workman herein despite various demands in this regard. Workman herein was working under the direct control and supervision of management Delhi International Airport (P) Ltd. and Airport Authority of India through JAC Air Services (I) Pvt. Ltd. as there is an arrangement between the workers that the workers shall continue to work on same post unless he is promoted or transferred, irrespective of change of company employed by Airport Authority of India for handling of cargo at cargo terminal at the airport. Duty performed by the workmen herein is of perennial nature. Airport Authority of India

through Delhi International Airport (P) Ltd. used to change the contractor for handling of cargo, but Airport Authority of India was not taking care of the various problems being faced by the workmen.

3. It is further the case of the workman that a false charge sheet dated 18.05.2010 was served upon the workman herein with wrong allegations by M/s. JAC Air Services (I) Pvt. Ltd. and the workman herein gave reply to the same on 24.05.2010. Thereafter, domestic enquiry was initiated against the workman herein. Shri T.N. Venkateswaran was appointed as Enquiry Officer and Shri B.S. Kaushik, Manager(OPS) was appointed as Presenting Officer in the said enquiry. Later on, dismissal order dated 01.09.2010 was passed against the workmen herein on the basis of enquiry report dated 14.07.2010. Order of dismissal has been alleged to be wrong, illegal and against principles of natural justice. It is further alleged that the M/s. JAC Air Services (I) Pvt. Ltd. has adopted a cryptic and illegal approach in deciding the various issues.

4. Managements were put to notice and separate replies have been filed by Managements No.1, 2 and 3. It is clear from reply filed by JAC Air Services (I) Pvt. Ltd. that it is engaged by Airport Authority of India to provide cargo handling services at the Import facilities at the Cargo Terminal. The answering management also engaged some employees, including the workman herein, Shri Janak Raj for a limited period on contract basis and it was mentioned in the said letter that if the contract with Airport Authority of India is terminated for reasons whatsoever, then services of the workmen shall also be terminated without any further notice. The workman herein was a contractual employee and a complaint was received from Security Department of Delhi International Airport (P) Ltd. on 01.05.2010 that some shipments were feeded in the system before segregation report, which is not correct in view of security system in the sensitive area of the airport as well as aircraft.

5. On the basis of the said complaint, domestic enquiry was conducted and after recording statement of the loaders working with the workman herein, Shri Janak Raj, it was established that he was involved in the matter, as a result of which order of suspension dated 07.05.2010 was issued against the workman. Thereafter, charge sheet was issued to the workman with the following charges:

- (i) That on 01.05.2010, your Shri Janak Raj, S/o Shri Ganga Bishan, Supervisor (S070) approached Senior Supervisor Shri G.S. Panwar, Shri Ajay Kumar and Shri Ranbir Singh to expedite flight checking of Flight No.3C-005 and you offered above Senior Supervisor money for expediting the said flight.
- (ii) That you convinced with Shri Sandeep of PC-CODS to feed the flight even though it was still not completed.
- (iii) That you got an amount of Rs.3000.00 out of which you gave Rs.2000.00 to Senior Supervisor Shri G.S. Pawar, Shri Ajay Kumar & Shri Ranbir Singh and Rs.500.00 to supervisor Shri Sanjiv and Rs.100.00 to driver Deepak.
- (iv) That accepting illegal gratification and inducing other colleagues above, is an act of serious misconduct on your part.

6. Shri T.N. Venkateswaran, Enquiry Officer, has given full opportunity to the workman herein. All the charges, except Charge No.(ii) and (iii) was stated to be established. In view of the report of the Enquiry Officer, workman herein was dismissed from service by the management vide a letter dated 01.09.2010, Ex.MW1/8. Management has denied the other allegations made in the statement of claim and has alleged that the enquiry is perfectly in accordance with law.

7. Reply filed by Airport Authority of India and Delhi International Airport (P) Ltd. are on same lines as filed by JAC Air Services (I) Pvt. Ltd. Moreover, it was not disputed during the course of arguments that the workman herein was directly working under the control of JAC Air Services (I) Pvt. Ltd., who has engaged him as contractual employee as supervisor.

8. Against this factual background, my learned predecessor on 26.07.2012 framed the following issues:

- (i) Whether enquiry conducted against the claimant by JAC Air Services Pvt. Ltd. is just, fair and proper?
- (ii) Whether Airport Authority of India has no privity of contract with the claimant?
- (iii) Whether M/s. Delhi International Airport (P) Ltd. has also no privity of contract with the claimant?
- (iv) Whether punishment of dismissal awarded to the claimant commensurate to his misconduct?
- (v) As in terms of reference

9. Issue No.(i) was treated as preliminary issue. Both the parties were granted opportunity to adduce evidence and the workman in support of his case, examined himself as WW1. Management, in order to prove the charges, examined Shri K.J. Rawtani as MW1. He has also proved enquiry report Ex.MW1/7 and other documents on record.

10. It is clear from evidence on record that charge sheet Ex.MW1/3 was served on the workman herein. Shri T.N. Venkateswaran was appointed as Enquiry Officer to conduct the said enquiry. His report is Ex.MW1/7. On the basis of the above report, order of dismissal Ex.MW1/8 was passed against the workman herein.

11. It is pertinent to mention here that issue No.1 pertaining to domestic enquiry was treated as preliminary issue and both parties were enjoined upon to adduce evidence on this issue. It is further clear from the record that the workman examined himself as WW1 and management to rebut the case of the workman on the preliminary issued examined Shri K.J. Rawtani as MW1. This Tribunal, vide order dated 10.03.2016, after considering evidence adduced by both the parties came to the conclusion that enquiry is unfair and against principles of natural justice. Thus the findings on the preliminary issue, i.e. whether the domestic enquiry conducted by JAC Air Services (I) Pvt. Ltd. against the workman, was answered in favour of the workman and against the management. The order passed by this Tribunal on 10.03.2016 shall form integral part of the award. Thereafter, it was noticed by the Tribunal that in fact management had not reserved any right in its pleadings, i.e. written statement, to adduce evidence on merits in case findings on the domestic enquiry goes against the management. Not only this, even an application was not filed by the management till conclusion of the findings on the domestic enquiry, i.e. on or before 10.03.2016, seeking permission to adduce evidence on merits. This Tribunal, having overall regard to the merits of the case, listed the case for evidence of the parties on the other issues for 13.03.2016. Thereafter, more time was prayed by both the parties on the said date to adduce evidence on the other issues. Shri Janak Raj has filed his affidavit Ex.WW1/B in support of his pleadings and his statement was ultimately recorded on 21.02.2017.

Issue No.2

10. This issue, in fact, is inter-related to issue No.1 and the question of giving findings on this issue would have arisen only in case domestic enquiry conducted by the management was held to be valid. Since this Tribunal, vide a detailed order dated 10.03.2016, held the enquiry to be unfair and against the principles of natural justice, as such, issue No.2 which pertains to the proportionality of punishment pales into insignificance. Hence, issue No.2 is decided accordingly.

11. Now, the vital issue before this Tribunal is whether the action of the management of Airport Authority of India /JAC Air Services (I) Pvt. Ltd. in terminating services of Shri Janak Raj, ex-Supervisor with effect from 01.09.2010 is legal and justified. Since this Tribunal, while rendering findings on domestic enquiry, i.e. issue No.1, has held the domestic enquiry to be unfair and against the principles of natural justice, as such action of the management in terminating services of the workman Shri Janak Raj is neither legal nor justified under the law. Moreover, as discussed above, management has not reserved its right to adduce evidence on merits qua the domestic enquiry nor any permission was sought at the appropriate stage by the management to prove the charges of misconduct against the workman on merits. As such, this Tribunal was not in a position to show any indulgence to the management. The legal position is fairly settled in a number of authorities by the Hon'ble Apex Court and in the case of Neeta Kaplish vs. Presiding Officer Labour Court (1999 Lab.IC 445), Hon'ble Apex Court after taking into consideration entire case law pertaining to domestic enquiry and right of adducing fresh evidence by the management held as under:

‘If the Management does not lead any evidence by availing of this opportunity, it cannot raise any ground at any subsequent stage that it should have been given that opportunity, as the Tribunal, in those circumstances, would be justified in passing an award in favour of the workman. If, however, the opportunity is availed of and the evidence is adduced by the Management, the validity of the action taken by it has to be scrutinized and adjudicated upon on the basis of such fresh evidence.’

12. The other residual question is as to what relief the workman is entitled to? It was seriously urged on behalf of the workman that he is unemployed after his termination. The workman has specifically stated that he remained out of employment after his termination and had no source of income. There is no evidence on record to suggest that the workman was gainfully employed after his termination. More so, in the absence of any evidence adduced by the management to this effect, version of the workman is to be accepted.

13. Regarding claim of back wages, it has been made amply clear in *Deepali Gundu Surwase vs. Kranti Junior Adyapak Mahavidyalaya (D.Ed) and others* (2013 Lab.I.C. 4249), as under:

‘Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not

employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.’

14. Yet again Hon’ble Supreme Court in *Raj Kumar Dixit Vs. Vijay Kumar Gauri Shankar* (2015) 9 SCC 345 set aside the judgement of Hon’ble High Court wherein back wages were reduced to 50% and held that High Court has exceeded its jurisdiction in setting aside the award passed by the Labour Court in awarding reinstatement to the workman to his post. It was observed that there are a number of factors which are to be taken into consideration by the Tribunal while considering the question of grant of back wages, including reinstatement. Relevant factors are, (i) whether the workman has approached the Tribunal at the earliest or there was delay in seeking reference, (ii) nature of the post, (iii) length of service as well as availability of vacancy when the question of reinstatement is being decided. Since facts of no two cases are similar, as such, the Tribunal is required to keep in mind the above circumstances before ordering grant of back wages. Legal position which emerges from the above two rulings is that where there is violation of provisions of law by the management in passing order of termination or retrenchment and evidence on record is clear that the workman was not gainfully employed or was not having any other source of income to make both ends meet during the period when the matter was being considered by the Tribunal, in such circumstances, Tribunal can always grant full back wages alongwith reinstatement.

15. As a sequel to my discussions hereinabove, it is held that the action of the management of Airport Authority of India/JAC Air Services (I) Pvt. Ltd. in terminating the services of Shri Janak Raj, ex-Supervisor with effect from 01.09.2010 is neither legal nor justified? Hence, Shri Janak Raj, the workman herein is entitled to reinstatement with the management of JAC Air Services (I) Pvt. Ltd. with full back wages. An award is accordingly passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : July 10, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1708.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स एयरपोर्ट अथॉरिटी ऑफ इण्डिया एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 82/2012) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.07.2017 को प्राप्त हुआ था।

[सं. एल-11012/1/2012-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 13th July, 2017

S.O. 1708.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 82/2012) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s.. Airport Authority of India and other and their workman, which was received by the Central Government on 12.07.2017.

[No. L-11012/1/2012-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

IN THE COURT OF SHRI AVTAR CHAND DOGRA, PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT NO.1, KARKARDOOMA COURT COMPLEX, DELHI

ID No. 82/2012

Shri Ranbir Singh Sehrawat
S/o late Shri Sube Singh,
R/o C/o Ramesh Kumar Giri,
Village and PO Bharthal, PS Kapashera,
Delhi – 110 045

...Workman

Versus

1. The Chairman,
Airport Authority of India
A Block, Rajiv Gandhi Bhawan,
Safdarjung Airport,
New Delhi
2. M/s. Delhi International Airport (P) Ltd.,
Terminal III, Indira Gandhi International Airport,
New Delhi
3. The General Manager,
JAC Air Services (I) Pvt. Ltd.
International Cargo Terminal,
New Delhi – 110 037
4. M/s. Sea Hawk Pvt. Ltd.,
Indira Gandhi International Airport,
New Delhi
5. M/s. Celibi Delhi Cargo Terminal Management India Pvt. Ltd.
Air Cargo Terminal,
Indira Gandhi International Airport,
New Delhi

...Managements

AWARD

A reference was received from Ministry of Labour under Clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(in short the Act), by this Tribunal, vide letter No.L-11012/1/2012-IR(M) dated 04.06.2012, for adjudication of an industrial dispute, terms of which are as under:

‘Whether the action of the management of Airport Authority of India/JAC Air Services (I) Pvt. Ltd. in terminating the services of Shri Ranbir Singh Sehrawat, ex-Assistant Manager with effect from 01.09.2010 is legal and justified? What relief the workman is entitled to?’

2. It is the case of the workman, Shri Ranbir Singh Sehrawat, that he was employed by Airport Authority of India in May 1986 as supervisor and was promoted in the year 1987 as Senior Supervisor. Thereafter, he was shifted to JAC Air Services (I) Pvt. Ltd. in 2002. He has been working with utmost sincerity, honesty. No appointment letter was issued to the workman herein despite various demands in this regard. Workman herein was working under the direct control and supervision Delhi International Airport (P) Ltd. and Airport Authority of India Ltd. through JAC Air Services (I) Pvt. Ltd. as there is an arrangement between the workers that the workers shall continue to work on same post unless he is promoted or transferred, irrespective of change of company employed by Airport Authority of India for handling of cargo at cargo terminal at the airport. Duty performed by the workmen herein is of perennial nature. Airport Authority of India through Delhi International Airport (P) Ltd. used to change the contractor for handling of cargo, but Airport Authority of India was not taking care of the various problems being faced by the workmen.
3. It is the case of the workman that a false charge sheet dated 18.05.2010 was served upon the workman herein with wrong allegations by JAC Air Services (I) Pvt. Ltd. and the workman herein gave reply to the same on 05.05.2010. Thereafter, domestic enquiry was initiated against the workman herein. Shri T.N. Venkateswaran was appointed as Enquiry Officer and Shri B.S. Kaushik, Manager(OPS) was appointed as Presenting Officer in the said enquiry. Later on dismissal order dated 01.09.2010 was passed against the workmen herein on the basis of enquiry report dated 14.07.2010. Order of dismissal has been alleged to be wrong, illegal and against principles of natural justice. It is further alleged that the JAC Air Services (I) Pvt. Ltd. has adopted a cryptic and illegal approach in deciding the various issues.
4. Managements were put to notice and separate replies have been filed by Managements No.1, 2 and 3. It is clear from reply filed by JAC Air Services (I) Pvt. Ltd. that it is engaged by Airport Authority of India to provide cargo handling services at the Import facilities at the Cargo Terminal. The answering management also engaged some employees, including the workman herein, Shri Ranbir Singh Sehrawat for a limited period on contract basis and it was mentioned in the said letter that if the contract with Airport Authority of India is terminated for reasons whatsoever, then services of the workmen shall also be terminated without any further notice. The workman herein was a contractual employee and a complaint was received from Security Department of Delhi International Airport (P) Ltd. on 01.05.2010 that some shipments were feeded in the system before segregation report, which is not correct in view of security system in the sensitive area of the airport as well as aircraft.

5. On the basis of the said complaint, domestic enquiry was conducted and after recording statement of the loaders working with the workman herein, Shri Ranbir Singh Sehrawat, it was established that he was involved in the matter, as a result of which order of suspension dated 07.05.2010 was issued against the workman. Thereafter, charge sheet was issued to the workman with the following charges:

- (i) That you Shri Ranbir Singh, S/o late Shri Sube Singh, Assistant Manager MM-02 on 01.05.2010, entered into conspiracy with Senior Supervisor Shri G.S. Pawar, Shri Ajay Kumar, Shri Mahesh Lamba, Supervisor Shri Janak Raj and Shri Sanjeev Kumar to get flight No.3C-005 checked expeditiously on consideration of money.
- (ii) That you accepted Rs.1,000(rupees one thousand only) from Shri G.S. Pawar, Senior Supervisor in the night of 02.05.2010 for yourself & for Senior Supervisor Mr.Ajay Rs.500.00(rupees five hundred only) each despite knowing full well that Flight 3C-005 has attracted adverse criticism & serious charges on 01.05.2010 from CELIBI. You have admitted acceptance of Rs.500.00(rupees five hundred) in your written submission dated 05.05.2010..
- (iii) That you have wasted company's manpower (Shri Janak Raj Supervisor) on Flight 3C-005 for illegal gratification..
- (v) That by accepting illegal gratification you have indulged into a case of serious misconduct.

6. Shri T.N. Venkateswaran, Enquiry Officer, has given full opportunity to the workman herein. All the charges were stated to be established. In view of the report of the Enquiry Officer, workman herein was dismissed from service by the management vide a letter dated 01.09.2010, Ex.MW1/6. Management has denied the other allegations made in the statement of claim and has alleged that the enquiry is perfectly in accordance with law.

7. Reply filed by Airport Authority of India and Delhi International Airport (P) Ltd. are on same lines as filed by JAC Air Services (I) Pvt. Ltd. Moreover, it was not disputed during the course of arguments that the workman herein was directly working under the control of JAC Air Services (I) Pvt. Ltd. who has engaged him as contractual employee as supervisor.

8. Against this factual background, my learned predecessor on 26.07.2012 framed the following issues:

- (i) Whether enquiry conducted by JAC Air Services Pvt. Ltd. against the claimant is just, fair and proper?
- (ii) Whether punishment of awarded to the claimant commensurate to his misconduct?
- (vi) As in terms of reference
- (vii) Relief

9. Issue No.(i) was treated as preliminary issue. Both the parties were granted opportunity to adduce evidence and the workman in support of his case, examined himself as WW1. Management, in order to prove the charges, examined Shri K.J. Rawtani as MW1. He has also proved enquiry report Ex.MW1/5 and other documents on record.

10. It is clear from evidence on record that charge sheet Ex.WW1/M2 was served on the workman herein. Shri T.N. Venkateswaran was appointed as Enquiry Officer to conduct the said enquiry. His report is Ex.MW1/5. On the basis of the above report, order of dismissal Ex.MW1/6 was passed against the workman herein.

11. It is pertinent to mention here that issue No.1 pertaining to domestic enquiry was treated as preliminary issue and both parties were enjoined upon to adduce evidence on this issue. It is further clear from the record that the workman examined himself as WW1 and management to rebut the case of the workman on the preliminary issued examined Shri K.J. Rawtani as MW1. This Tribunal, vide order dated 10.03.2016, after considering evidence adduced by both the parties came to the conclusion that enquiry is unfair and against principles of natural justice. Thus the findings on the preliminary issue, i.e. whether the domestic enquiry conducted by JAC Air Services (I) Pvt. Ltd. against the workman, was answered in favour of the workman and against the management. The order passed by this Tribunal on 10.03.2016 shall form integral part of the award. Thereafter, it was noticed by the Tribunal that in fact management had not reserved any right in its pleadings, i.e. written statement, to adduce evidence on merits in case findings on the domestic enquiry goes against the management. Not only this, even an application was not filed by the management till conclusion of the findings on the domestic enquiry, i.e. on or before 10.03.2016, seeking permission to adduce evidence on merits. This Tribunal, having overall regard to the merits of the case, listed the case for evidence of the parties on the other issues for 13.03.2016. Thereafter, more time was prayed by both the parties on the said date to adduce evidence on the other issues. Shri Ranbir Singh Sehrawat has filed his affidavit Ex.WW1/B in support of his pleadings and his statement was ultimately recorded on 21.02.2017.

Issue No.2

12. This issue, in fact, is inter-related to issue No.1 and the question of giving findings on this issue would have arisen only in case domestic enquiry conducted by the management was held to be valid. Since this Tribunal, vide a detailed order dated 10.03.2016, held the enquiry to be unfair and against the principles of natural justice, as such, issue No.2 which pertains to the proportionality of punishment pales into insignificance. Hence, issue No.2 is decided accordingly.

13. Now, the vital issue before this Tribunal is whether the action of the management of Airport Authority of India /JAC Air Services (I) Pvt. Ltd. in terminating services of Shri Ranbir Singh Sehrawat, ex-Assistant Manager with effect from 01.09.2010 is legal and justified. Since this Tribunal, while rendering findings on domestic enquiry, i.e. issue No.1, has held the domestic enquiry to be unfair and against the principles of natural justice, as such action of the management in terminating services of the workman Shri Ranbir Singh Sehrawat is neither legal nor justified under the law. Moreover, as discussed above, management has not reserved its right to adduce evidence on merits qua the domestic enquiry nor any permission was sought at the appropriate stage by the management to prove the charges of misconduct against the workman on merits. As such, this Tribunal was not in a position to show any indulgence to the management. The legal position is fairly settled in a number of authorities by the Hon'ble Apex Court and in the case of Neeta Kaplish vs. Presiding Officer Labour Court (1999 Lab.IC 445), Hon'ble Apex Court after taking into consideration entire case law pertaining to domestic enquiry and right of adducing fresh evidence by the management held as under:

‘If the Management does not lead any evidence by availing of this opportunity, it cannot raise any ground at any subsequent stage that it should have been given that opportunity, as the Tribunal, in those circumstances, would be justified in passing an award in favour of the workman. If, however, the opportunity is availed of and the evidence is adduced by the Management, the validity of the action taken by it has to be scrutinized and adjudicated upon on the basis of such fresh evidence.’

14. The other residual question is as to what relief the workman is entitled to? It was seriously urged on behalf of the workman that he is unemployed after his termination. His date of birth is 10.12.1954 and he was terminated on 01.09.2010 and in normal course of business, the workman would have retired at the age of 60 as per Model Standing Orders. The workman has specifically stated that he remained out of employment after his termination and had no source of income. There is no evidence on record to suggest that the workman was gainfully employed after his termination. More so, in the absence of any evidence adduced by the management to this effect, version of the workman is to be accepted.

15. Regarding claim of back wages, it has been made amply clear in Deepali Gundu Surwase vs. Kranti Junior Adyapak Mahavidyalaya (D.Ed) and others (2013 Lab.I.C. 4249), as under:

‘Ordinarily, an employee or workman whose services are terminated and who is desirous of getting back wages is required to either plead or at least make a statement before the adjudicating authority or the Court of first instance that he/she was not gainfully employed or was employed on lesser wages. If the employer wants to avoid payment of full back wages, then it has to plead and also lead cogent evidence to prove that the employee/workman was gainfully employed and was getting wages equal to the wages he/she was drawing prior to the termination of service. This is so because it is settled law that the burden of proof of the existence of a particular fact lies on the person who makes a positive averments about its existence. It is always easier to prove a positive fact than to prove a negative fact. Therefore, once the employee shows that he was not employed, the onus lies on the employer to specifically plead and prove that the employee was gainfully employed and was getting the same or substantially similar emoluments.’

16. Yet again Hon'ble Supreme Court in Raj Kumar Dixit Vs. Vijay Kumar Gauri Shankar (2015) 9 SCC 345 set aside the judgement of Hon'ble High Court wherein back wages were reduced to 50% and held that High Court has exceeded its jurisdiction in setting aside the award passed by the Labour Court in awarding reinstatement to the workman to his post. It was observed that there are a number of factors which are to be taken into consideration by the Tribunal while considering the question of grant of back wages, including reinstatement. Relevant factors are, (i) whether the workman has approached the Tribunal at the earliest or there was delay in seeking reference, (ii) nature of the post, (iii) length of service as well as availability of vacancy when the question of reinstatement is being decided. Since facts of no two cases are similar, as such, the Tribunal is required to keep in mind the above circumstances before ordering grant of back wages. Legal position which emerges from the above two rulings is that where there is violation of provisions of law by the management in passing order of termination or retrenchment and evidence on record is clear that the workman was not gainfully employed or was not having any other source of income to make both ends meet during the period when the matter was being considered by the Tribunal, in such circumstances, Tribunal can always grant full back wages alongwith reinstatement.

17. As a sequel to my discussions hereinabove, it is held that the action of the management of Airport Authority of India/JAC Air Services (I) Pvt. Ltd. in terminating the services of Shri Ranbir Singh Sehrawat, Ex-Assistant Manager with effect from 01.09.2010 is neither legal nor justified? Hence, Shri Ranbir Singh Sehrawat, the workman herein, is entitled to full back wages till the date of his superannuation i.e. 60 years as per Model Standing Orders. An award is, accordingly, passed. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : July 10, 2017

A. C. DOGRA, Presiding Officer

नई दिल्ली, 13 जुलाई, 2017

का.आ. 1709.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मैसर्स इन्द्रप्रस्थ गैस लिमिटेड एवं अन्य के प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण एवं श्रम न्यायालय-1, नई दिल्ली के पंचाट (संदर्भ संख्या 159/2015) को प्रकाशित करती है, जा केन्द्रीय सरकार को 11.07.2017 को प्राप्त हुआ था।

[सं. एल-30012/18/2015-आईआर (एम)]

राजेश कुमार, अवर सचिव

New Delhi, the 13th July, 2017

S.O. 1709.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 159/2015) of the Central Government Industrial Tribunal/Labour Court-1, New Delhi now as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s.. Indraprastha Gas Ltd. and other and their workman, which was received by the Central Government on 11.07.2017.

[No. L-30012/18/2015-IR (M)]

RAJESH KUMAR, Under Secy.

ANNEXURE

BEFORE PRESIDING OFFICER : CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT No. 1: Room No.38-A(GF), KARKARDOOMA COURT COMPLEX, SHAHDRA, DELHI- 32

ID NO. 159/2015

Sh. Pramod Kumar Gupta
S/o Sh. Mohan Lal, R/o H.No. 337/17,
Master Mohalla, Vill- Tuglakabad,
New Delhi – 110044

...Workman

All India General Mazdoor Trade Union (Regd.),
AITUC, 118, Kishan Ganj Market,
New Delhi - 110007

Versus

1. The Management of Indraprastha Gas Ltd,
Plot No.-4, Community Centre,
Sector -9, R.K. Puram,
New Delhi – 110022
2. M/s. Sopano and M Pvt. Ltd.,
C- 4, 2nd Floor, Malviya Nagar,
New Delhi – 110017

...Management

AWARD

A reference was received from the Government of India, Ministry of Labour vide order No. L-30012/18.2015- IR(M) dated 30.06.2015 under clause d of sub section 1 & sub section 2 A of the section 10 of the Industrial dispute of Act. (In short the Act) for adjudication of the industrial dispute, the terms of which are as under:

“Whether the workman Sh. Pramod Kumar Gupta has abandoned his services or his services have been illegally and unjustifiably termination by the management and to what relief is the workman entitled to and what directions are necessary in this respect ?”

2. Both the parties were put to notice and claimant herein filed statement of claim wherein it is averred that claimant has joined the service with the management as CNG compressor operator on 01/11/2002 and remained in service till 11/03/2014. When his service was terminated without issuance of notice and any charge sheet on 12/03/2014 by the management, the claimant was drawing salary of 8900/- per month and was given the benefit of bonus, overtime payments, T.A., and House Allowance etc..

3. After the termination, claimant took up the matter with his union by submitting a complaint. The union has referred the matter to Assistant Labour Commissioner (ALC). The management was also given notice by ALC. However, management refused to take back the claimant in the service. A demand notice was also sent through his union by registered post on 28/03/2014 vide Ex.WW1/1.

4. It is also the case of the claimant that he was doing overtime work for more than four hours and has not been paid salary by the management due to the non-cooperative attitude of the management. The proceeding before the ALC has failed as is clear from letter dated 09/04/2015.

5. Finally, claimant has made prayer for setting aside order of his termination with reinstatement.

6. The management (M/s. Sopan O and M Pvt. Ltd.) appeared before this tribunal and filed written statement. However, management No. 1(The Management of Indraprastha Gas Ltd.,) did not file written statement despite grant of several opportunities. As such, Management No. 1 was proceeded ex-parte on dated 03/05/2016.

7. No issue was framed in the present matter as the only issue required to be answered was a reference already made by Government. It is necessary to mention here management No.2 (M/s. Sopan O and M Pvt. Ltd.,) was also proceeded ex-parte on 21/02/2017 as none appeared on behalf of the said management.

8. The claimant, Sh. Pramod Kumar Gupta, in support of his case, examined himself as WW1 and his affidavit is Ex.WW1/A. He has also tendered his affidavit in evidence, which is Ex.WW1/A. Along-with this affidavit, he relied on documents Ex.WW1/1 to Ex.WW1/7. The affidavit of the claimant is on the similar line as the averments contained in statement of claim.

9. I have heard Shri Anil Rajpoot, A/R for the claimant.

10. It is clear from the perusal of the evidence on record that claimant herein, joined service with M/s. Sopan O and M Pvt. Ltd. which is Management No. 2 as CNG compressor operator and remained in service till 11/03/2014. This fact has been admitted by management No. 2 in the written statement. It is also alleged by management No.2 that claimant stopped reporting for duty of his own w.e.f. 12/03/2014 without any intimation or prior permission of the management. The management also tried to contact him on his mobile, however, his mobile most of the time was not reachable or was switched off.

11. It is also clear from the perusal of complaint Ex.WW1/1 that matter was also taken by All India General Mazdoor Trade Union of the claimant with ALC. The demand notice was filed by the claimant which is Ex.WW1/4 and postal receipts are Ex. WW1/2 and Ex.WW1/3 sent to the management. The statement of claim filed before the ALC is Ex.WW1/5. The claimant has also tendered in evidence letter Ex.WW1/7 which shows that management No.2 had made offer of employment to the claimant herein, wherein conditions of service is also mentioned. He was also later on promoted by management No.2 as is clear from the latter dated 16/04/2005 as operator Grade-III. There is also mention of the salary in this letter dated 16/04/2005.

12. It is clear from the resume of the evidence on the record, that the claimant has joined service with the management on 01/11/2002 and remained in service till 12/03/2014. Even the HR Manager, during the course of arguments, has admitted these facts and his only submission before this court was that claimant had voluntarily abandoned the service as he remained absent after 12/03/2014.

13. To my mind, there is no merit in the contention of the management in as much as, no evidence has been adduced by the management regarding the unauthorized absence or voluntary abandonment of the job by the claimant. None has appeared on behalf of either management No.1 or management No.2 to support the plea of abandonment or unauthorized absence. In Kali Ram Vs Presiding Officer and Ors.2017 LLR 95 the Hon'ble High Court of Punjab and Haryana, almost under similar circumstances has rejected the plea of voluntary abandonment taken by the management for the reason that the management had not issued any notice asking the claimant to report for duty followed by regular enquiry, to hold the claimant guilty of absentism i.e, abandonment of job. The fact situation in the present case is almost the same. Moreover, this Tribunal cannot ignore the fact that none has appeared on behalf of either of the

managements to prove the plea of absentism or voluntary abandonment. Thus, this Tribunal is also entitled to draw adverse inference against both the managements.

14. In the case on hand there is clear cut violation of 25-F of the ID Act which requires service of one month notice in writing or payment of one month wages in lieu of such notice. Admittedly, the claimant was in continuous employment of the management and worked for more than 240 days during the preceding of 12 months prior to his termination in a calendar year. It is now well settled position in law that the provision of section 25-F are couched in mandatory form and non-compliance therewith has the result of rendering the order of retrenchment void ab initio or non-est; State of Rajasthan Vs. Miss Usha Lokwani, 1994 LLR 369 (Raj).

15. As a sequel to my above discussion, it is held that the service of claimant, Shri Pramod Kumar Gupta has been wrongly and illegally terminated by the management and action of the management is totally arbitrary and illegal. Consequently, the claimant is liable to be reinstated in service with full back wages. An award is accordingly passed and let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

Dated : July 05, 2017

A. C. DOGRA, Presiding Officer